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**CHAPTER I: THE SUPREMACY OF EQUAL RIGHTS**

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## ABSTRACT

The black and white abolitionist agitation of the school integration issue in Massachusetts from 1840 to 1855 gave us the first school integration case filed in America, the first state supreme court decision reported on the issue, and the first state-wide law banning racial discrimination in admission to educational institutions. Who favored and who opposed school integration, and what arguments did each side make? Were the types of arguments that they offered different in different forums? Were they different from 20th century arguments? Why did the movement triumph, and why did it take so long to do so? What light does the struggle throw on views on race relations held by members of the antebellum black and white communities, on the character of the abolitionist movement, and on the development of legal doctrines about racial equality? Perhaps more generally, how should historians go about assessing the weight of different reasons that policymakers adduced for their actions, and how flawed is a legal history that confines itself to strictly legal materials? How can social scientific theory and statistical techniques be profitably applied to politico-legal history? Part of a larger project on the history of court cases and state and local provisions on racial discrimination in schools, this paper introduces many of the main themes, issues, and methods to be employed in the rest of the book.

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## CHAPTER I

### "THE SUPREMACY OF EQUAL RIGHTS"<sup>1</sup>

December 17, 1855, was a time for Boston abolitionists, black and white, to rejoice. "It was one of those rare days in the history of a hard struggle," Wendell Phillips remarked, "when there was something palpable to rejoice at. Men were always asking--What has the anti-slavery agitation done? He was glad that they had this answer to make now--It has opened the schools!"<sup>2</sup>

The celebration at the black Southac Street Church honored William Cooper Nell, a reticent but tenacious Garrisonian who was one of the country's first black federal officeholders as well as its first black historian. Phillips, Brahmin lawyer, premier abolitionist orator, quintessential American agitator, paid tribute to Nell as the ideal behind-the-scenes reformer: "These causes are apt to sink, where everybody's business is nobody's business. They were none of them [at the meeting] willing to give the cheerless, disheartening toil, the unremitting industry, the hope against hope, which he has given. If he had not been the nucleus, there would have been no cause.. ." <sup>3</sup>

Breaking the tone of high seriousness and solemn praise, Phillips added that "He was glad this reform had been carried for another reason. He was tired of having Mr. Nell coming to him with his petitions." Although it had started fifteen years earlier, when Nell, Phillips, William Lloyd Garrison, and two other white abolitionists had signed a petition to the Boston Grammar School Committee praying for the integration of the city's schools, the struggle, like other reform movements, was not entirely continuous, and the Garrisonians were not so responsible for the victory as they seemed to maintain. Garrison was as shocked as the state's dominant Whig Establishment when the Know-Nothing party, which had been extensively infiltrated in Massachusetts by political antislavery men, suddenly swept the Whigs and Democrats from control of the city and state governments. An overwhelming majority of the members of the 1855 General Court, as the state legislature was called, were racial egalitarians. When Nell "came up with his huge budget of papers," all the chairman of the education committee of the lower house, the former Free Soiler and future Republican Charles W. Slack of Boston, had to do was to "put the manifold testimony he [Nell] brought into the shape of a 'Report,' and present it to the House." In a dozen years, similarly stringent bills had never emerged from committee. This one, banning any official from excluding a child from any school because of race or color, passed on a voice vote with only about half a dozen "nays." Garrison saw the triumph as a harbinger, ". . . the beginning of the end--the prophecy of the ultimate extinction of complexional caste throughout the land . . ."<sup>4</sup>

It was a prophecy that was only partially fulfilled in the nineteenth century--indeed, it has not been fully realized 130 years later--but Massachusetts is the appropriate place to begin the study of the struggle for the elimination of racial discrimination in education. All the themes were announced in Massachusetts, and all were recorded and preserved: the

arguments for and against school segregation; the agitation in multiple arenas--legislative, executive, judicial, and popular; social, philosophical, and tactical divisions within both the black and the white communities; the judicial determination of the "reasonableness" of racial discrimination in constitutional law; the influence of "politics" on the final outcome; the ironies of victory and defeat. Boston gave us the first state school integration law and the first solid judicial precedent for racial separation. The one, and the battle that led up to it, inspired opponents of racism for the rest of the century; the other buttressed legal briefs and judicial opinions upholding *apartheid* even after the memory of which side ultimately won in Massachusetts had been extinguished.<sup>5</sup>

Blacks had not been uniformly excluded from Massachusetts schools in the eighteenth century, and no law ever specifically banned them from the Commonwealth's educational institutions. But there had been informal bars, and those black children who entered the common schools in the years following the Revolution seem to have been regularly harassed. In 1800, therefore, a group of blacks led by Primus ("Prince") Hall petitioned the Boston Town Meeting for public money to set up a school for black children.<sup>6</sup> When the Meeting refused on the grounds that the schools were already open to all children and that a separate school for the few blacks that they expected to attend would be too expensive, Hall raised some money privately from a number of wealthy whites and began a "subscription" school (that is, one that required students to pay tuition) in his own home. Taught by white instructors, this private school persisted off and on, sometimes requiring tuition and sometimes free, until 1806 or 1808, when public authorities appropriated \$200 a year to a successor school housed in the basement of the newly completed African Baptist Church.<sup>7</sup> Rent from the room subsidized the black community's first religious institution, and especially benefited its minister from 1806 to 1831, Thomas Paul, whose wife and two daughters were salaried assistants in the school and whose son Thomas Jr. received his education without paying the tuition required of other pupils. From 1808 to 1824, the school also provided the chief employment opportunity in the city for other black professionals, as it was taught by a succession of five black schoolmasters.<sup>8</sup> After 1815, a bequest by Abiel Smith, a white merchant, defrayed the school's costs entirely, and in subsequent years, the School Committee established one or two small primary schools (those for children aged 4 to 7 or 8) for blacks as well.<sup>9</sup>

Abolitionists took up the cause of education for Boston blacks in the 1830s, and their course of action provides a striking refutation of the charges of contemporary critics and modern historians that the Garrisonians were racially biased, or indifferent to the welfare of northern free blacks, or anti-institutionalist. Ralph Waldo Emerson put the first charge most memorably: "The Ultra-Abolitionists . . . make it a point to love Negroes at a distance, and to hate them when they come too near."<sup>10</sup> Although generally more qualified, the statements of such historians as William and Jane Pease echoed the spiteful Transcendentalist's attack. The Garrisonians, the Peases concluded, ". . . displayed a social distaste for and an underlying distrust of the individual Negroes they encountered . . . a marked race prejudice."<sup>11</sup> In his psychohistory of abolitionism, Lawrence J. Friedman charged that "covert racial antipathies," a patronizing "missionary mentality," and a "need" to perpetuate a paternalistic "dependency relationship" with blacks caused white abolitionists to

ignore the cultivated qualities of Nell and other middle-class blacks and to deny them equal and independent status in the crusade.<sup>12</sup> Stanley K. Schultz's indictment of Boston school reformers in *The Culture Factory* casts doubt on the white Garrisonians' role in the school integration controversy by innuendo, referring to them, for example, as the "alleged friends of the Blacks," and remarking that "Despite the participants' humanitarian rhetoric, the whole affair smacked of opportunistic paternalism."<sup>13</sup> In *Slavery: A Problem in American Institutional and Intellectual Life*, Stanley Elkins charged that the abolitionists, feeling no "vested interest" in any institution, tended toward "erratic, emotional, compulsive, and abstract" thought, and, motivated largely by personal guilt, demanded only "a total solution" to evil. Or as Thomas D. Morris put it, the Garrisonians "rejected political action in any traditional sense."<sup>14</sup>

In the first number of *The Liberator*, Garrison had assured blacks that "the struggle for equal rights in the North constituted a leading object of Abolitionism."<sup>15</sup> Two years later, in 1833, the New England Anti-Slavery Society established a committee "to endeavor to get colored children into the public [i.e., "white"] schools, to improve the existing schools for colored children and to build up others."<sup>16</sup> In the same year, the Garrisonians Lydia Maria Child and her husband David Lee Child used her talents as a writer and his position on the Boston Grammar School Committee to call for improvements in black education. Thomas Paul having died in 1831, the authority that he had exercised over the school passed entirely to the (all-white) School Committee, whose members were appalled by its condition.<sup>17</sup> Although David Child strongly implied that he preferred integration, his report as chairman of an 1833 subcommittee of the School Committee recommended only a new school building. "The situation of the room is low and confined," he observed. "It is hot and stifled in summer and cold in winter."<sup>18</sup> His wife went further, condemning as incompetent the white teacher, William Bascom, who had held the post for nearly a decade, and recommending the substitution of a black teacher instead. "Under the domain of existing prejudices, it is difficult to find a white man, well-qualified to teach such a school, who feels the interest he ought to feel, in these Pariahs of our republic."<sup>19</sup> Black leaders, perhaps acting in conjunction with their white allies, charged Bascom with neglect of the school and with making improper advances to female pupils.<sup>20</sup>

The School Committee responded by investigating, clearing, but removing Bascom and by erecting a new building, naming it for Abiel Smith. Bascom's replacement, at a salary for the first time equivalent to that of teachers at the common schools, was Abner Forbes, a white Williams College graduate and experienced teacher, who was also, Garrison announced, ". . . an uncompromising abolitionist and one of the managers of the New England Anti-Slavery Society . . ."<sup>21</sup> Attendance at the school leapt in 10 weeks from 25 to 80, even before the completion of the new building in 1835.<sup>22</sup> Built at a cost of \$20,000, a generous figure at the time, the school was located in ward 6, where two-thirds of Boston's 2000 or so blacks, about 2% of the city's population, lived at the time.<sup>23</sup> At the dedication of the new building, the chairman of the School Committee, William Minot, declared that "The prospects of the school are cheering. Everything connected with it seems to promise that it will long be a blessing to the colored inhabitants of the city."<sup>24</sup>

Their temporary acceptance of a much improved separate school did not prevent the abolitionists from first verbally protesting, and then campaigning actively against other kinds

of discrimination, and they and their opponents went on to apply the lessons learned there to Jim Crow schools. During the 1830s, the abolitionists had used massive petition drives to attract publicity, build membership, and yoke the issue of slavery in the south to that of civil liberties for northern whites. In 1839 and 1840, they turned the tactic to the last vestige of the slave code in Massachusetts, the anti-intermarriage law, bombarding the General Court in the latter year with petitions signed by nearly 9000 people. In response, the 1841 state senate passed the bill, 17-13, but despite an impassioned plea by the Nantucket abolitionist George Bradburn, a participant in the World Antislavery convention in London in 1840 and chairman of the relevant house committee, the state house defeated the measure, 134-127.<sup>25</sup>

Abolitionists had also condemned stagecoach, steamboat, and railroad segregation during the 1830s, but in 1841, a series of apparently unplanned incidents brought the issue to public attention.<sup>26</sup> At different times during the year several black abolitionists, including Frederick Douglass, Charles Lenox Remond, William C. Nell, David Ruggles, and a woman travelling with a small baby, Mrs. Mary Newhall Green, were threatened or physically coerced into leaving the "white" cars of various Massachusetts railroads.<sup>27</sup> Nor were the white friends who were travelling with Douglass and Remond to and from antislavery meetings allowed to join them in the "colored" cars. In July, Ruggles unsuccessfully sued the road for assault and battery, and in November, a white dentist, Daniel Mann, who had been dragged from a train for protesting the expulsion of a black passenger, brought similar charges. In Mann's case, sketches of the legal arguments for both sides survive. The lawyer for the conductor asserted that private corporations had the right to impose "reasonable and proper" regulations based on "the established usage and the public sentiment of this community," and that even if the rule were "unreasonable," Mann and his friends had no right to "take the law into their own hands" by violating the private company's policy. In response, Samuel E. Sewall, the Liberty party's candidate for governor in 1842 and the namesake and descendant of a leading colonial abolitionist who was Chief Justice of the Massachusetts Supreme Court, contended that without specific legal sanction, the railroad had no authority to impose a rule based on the "arbitrary" criterion of race. Boston Police Court Judge Simmons ruled against Mann, but his reasons, if he gave any, have not been preserved.<sup>28</sup>

Having lost in the courts, the antislavery forces appealed to the legislature, both their tactic and their contentions foreshadowing the school struggle. Responding to a petition headed by the name of Francis Jackson, a Boston merchant, close collaborator of Garrison, and one of the signers of the 1840 school petition, a joint special committee of the General Court unanimously recommended a law to prohibit railroad segregation.<sup>29</sup> That custom, the committee's report declared, was contrary to the first article of the Massachusetts Declaration of Rights (part of the state constitution), which stated that ". . . all men are born free and equal, and have certain natural, essential, and unalienable rights . . ." As common carriers licensed by the state, railroads had no right to make any ". . . invidious distinction . . . in consequence of difference in opinion, sex, color, sect, or other rightful and innocent peculiarity . . ."<sup>30</sup> Such distinctions constituted an "insult" that was ". . . manifestly opposed to the spirit of our institutions.. . ." On some roads, the committee stated, slaves were allowed to ride in the same cars as their owners, while free blacks were excluded from them. This practice was patently "unreasonable."<sup>31</sup>

Three Garrisonians testified before the committee: Charles Lenox Remond, Wendell Phillips, and Ellis Gray Loring, an affluent Boston lawyer.<sup>32</sup> Loring's answer to defenses of segregation is so central to nineteenth century natural rights egalitarian theory and sounds so strikingly like some discussions of modern equal protection law that it deserves quoting at length:

Distinctions made between parties that are socially held to be unequal, are always an insult to the reputedly inferior party. If the peer's daughter be forbidden to marry the peasant's son, common sense tells us that the peasant is the insulted party, however plausibly it may be argued that the prohibition touches both alike.

But the majority, it is said, must regulate these things. Are all our rights, then, at the mercy of a majority? Our Constitution and our laws are framed mainly to protect the rights of the minority and to say to the majority: Thus far shalt thou go, and no further. . . . You would not allow your property to be confiscated, because it was the taste of the majority to take it from you. If not, why are your other rights to be left at the mercy of every man's taste? Surely there are rights as valuable as money.

. . . the Constitution of Massachusetts has stated that all men are born free and equal, as the foundation on which all our laws and institutions are built. Not equally tall, or handsome, or dark or white complexioned; but equal in the eye of the law, which knows none of these distinctions. If there is a proposition well settled, it is this--all men here are *equal before the law*.<sup>33</sup>

The "insult" interpretation of segregation, the cutting rejection of the disingenuous claim that separation was not anti-black in intent or effect, the equation of human and property rights, the insistence on both a natural law and a constitutional basis for nondiscrimination--these themes would be echoed again and again in the nineteenth century. Equal protection emerged fully armed from Loring's brow in 1842, the product either of his own mind or of ideas common to the abolitionists. For Remond and Phillips, too, stressed that equality of treatment in public accommodations was "a right, not a privilege." The action that they sought was thus not a change, but merely a declaration: "We ask not for the *writing* of law," Phillips stated. "We ask the Legislature to say *what is law*."<sup>34</sup>

The legislature refused. The bill lost in the state senate in 1842 and in the house in 1843 without recorded votes. Nonetheless, the war was a success, for by January, 1844, all the state's railroads had voluntarily abolished the Jim Crow cars and allowed blacks to enter the "white" cars freely.<sup>35</sup> There were no more reported incidents of railroad segregation in the state during the antebellum period.

Voluntary action could not overturn the ban against racial intermarriage. Despite the fact that mixed marriages were the bugaboo of nineteenth century racial arguments and are the most weakly supported of civil rights among whites even in the 1980s, a repeal bill passed both houses in Massachusetts.<sup>36</sup> During the course of the debate, Charles Francis Adams, the son and grandson of presidents who was then beginning his own political career in the state house of representatives, denounced the old law as opposed to public morals, "for it promoted illicit connections," as well as contrary to the state constitution's Declaration of Rights.<sup>37</sup> State Senator Washburn of Worcester condemned the old law for making an "arbitrary" and "invidious distinction" between citizens.<sup>38</sup>

The General Court's repeal of the anti-intermarriage law was even more astonishing because it occurred in the only session of the legislature during the 1840s and 50s controlled by the Democrats, the party least sympathetic to black rights in the nineteenth century.<sup>39</sup> Because the ascendancy of Massachusetts's Whigs was reinforced by the state's peculiar election rules, and because these rules both shaped and inhibited the crusade for black rights, it is worth explaining them in some detail.

Massachusetts elected a governor, General Court, and local officials annually in the 1840s and 50s, every winner had to obtain a majority, and in urban areas, the aldermen and members of the legislature ran in city-wide multimember districts. If no candidate for governor obtained a majority of the votes cast, the election was thrown into the legislature. If there was no majority winner in local and General Court elections, the voters had to go to the polls again and again until majority winners emerged, and any number of candidates, often different from those in previous races, could run. In 1844-45 in Boston, for instance, it took eight elections over ten weeks to elect a mayor, the Whigs desperately and ultimately unsuccessfully attempting to produce someone who could defeat the nativist front-runner.<sup>40</sup> Furthermore, towns were not required to send representatives to the General Court, and the thrifty citizens of western Massachusetts, who were less reliably Whig than Boston was, often refused to bear the expense of a three months' sojourn in the eastern metropolis.

The consequences of the electoral system were threefold: First, the Whigs generally controlled the legislature, buttressed by a solid 53-man delegation from Suffolk County (largely Boston), and therefore elected the governor. Second, since there appears to have been the usual legislative deference to local delegations on matters specially affecting their towns, Boston integrationists would have to get a clear majority of the Boston votes to push through a school desegregation law.<sup>41</sup> Since it was much more difficult to divide the Boston delegation by parties than it would have been under a single member district system, and since the Whig Establishment overwhelmingly supported segregation, gradual progress toward a school integration law was nearly impossible. Third, the majority-win system without two candidate runoffs hurt the second most popular party, the Democrats, and encouraged third and fourth parties and coalitions. Voters who preferred an antislavery or a nativist alternative to both the Whigs and Democrats could cast ballots for their favorite alternative without fearing that their votes would be "thrown away," since they counted, in effect, for the opposition even when they were not cast for the largest opposition party.<sup>42</sup> Because repeated contests were at most a year away, voters could reasonably believe that politicians would remember the lessons of each election and take steps to conciliate large and demonstrable blocs. For instance, an antislavery voter could cast a Liberty or Free Soil ballot with some expectation that, even if his candidate did not win this time, either he would succeed in a later election or the Whigs would move toward a more antislavery position in a subsequent election. In the terms of rational choice theory, this was a repeated game which strongly encouraged both "sincere voting" by the electorate and strategic behavior by the politicians.<sup>43</sup>

As one anti-discrimination campaign fed others, abolitionists attacked school segregation, beginning at the local level. Although seeking its closing, the abolitionists kept a close watch on the Smith school, Nell reporting that its 1841 public examination had "passed off in a



manner highly creditable to the pupils," while in 1842 an anonymous correspondent reported considerable dissatisfaction among black parents at that year's exhibition.<sup>44</sup> In 1845, in a published ranking on standard tests of all eighteen of Boston's grammar schools, Smith placed lowest in every category, averaging less than five per cent as many correct answers as the leading school and only twenty-five per cent as many as the lowest scoring white school.<sup>45</sup>

The first blow, however, was struck not in Boston, but on the island of Nantucket. Because of black maritime employment, Nantucket had the highest proportion of blacks among school age children of any town in the state--5.5%, compared to 2.3% in Boston.<sup>46</sup> In February, 1842, Nantucket blacks petitioned the School Committee to let their children enter the graded common schools, rather than being confined because of "a mere accident, the difference of complexion" to a single, ungraded segregated school. "[W]e want no exclusive school privileges; we are citizens of this great republic; our veins are full of republican blood; we contend not for, neither do we desire, any rights and privileges that are not common to the rest of the members of this community." Nevertheless, a move in the 1842 town meeting to grant their prayer failed.<sup>47</sup> In 1843, abolitionists won a majority of seats on the Nantucket school committee and acted favorably on a black petition to allow their children into the common schools. When five blacks entered one school, fourteen whites left, and integration became the chief issue in the next year's campaign, which swept the reformers from office. Barred from the white schools, every black child on the island counter-boycotted, and Absalom F. Boston, a former sea captain and the richest black on Nantucket, sued, seeking entry into the common schools for his daughter Phebe Ann.<sup>48</sup> In 1846, after the most hotly contested local campaign in Nantucket's history, the voters elected all members of the abolitionist slate by margins of less than one percent, reversing large majorities for what one local abolitionist called "the cossacks" in the two previous annual elections. They then opened all the schools to black children, and the policy was never reversed.<sup>49</sup> Their action mooted the *Boston* case--probably the first school integration case ever filed in the United States--which was never brought to trial.

The few blacks in Salem had been allowed to attend white schools from 1794 to 1807, from 1823 to 1826, and from 1830 to 1833. White protests segregated the schools absolutely in the intervening periods. In 1844, Salem blacks again petitioned for entry into the white schools, and over two-thirds of the "African" school's pupils stayed away when their request was rejected.<sup>50</sup> Seeking legal cover, abolitionist mayor Stephen C. Phillips, later the Free Soil party's candidate for governor, solicited the written advice of Boston lawyer Richard Fletcher, who was to be appointed to the Massachusetts Supreme Court in 1846. Published in pamphlet form and in Horace Mann's *Common School Journal*, Fletcher's opinion received wide attention.<sup>51</sup> Since neither any law nor the state constitution made any distinction between citizens of different races, Fletcher declared, blacks could not be excluded from any school on account of race. Even if a separate school had been "equally advantageous," blacks had a right to identical treatment and were "not bound to accept an equivalent." Salem integrated.<sup>52</sup>

But the center of attention was always Boston. During the 1840s, the School Committee was divided into two parts. Two members chosen annually in partisan elections from each of the twelve wards comprised the Grammar School Committee.<sup>53</sup> A much larger Primary School Committee consisted of one member for each of the numerous primary schools (137 in

1846). Nominally appointed by the Grammar School Committee, the Primary School Committee was in fact self-perpetuating, filling any vacancies itself at its quarterly meetings.<sup>54</sup> Both committees were overwhelmingly Whig. The 1844 Grammar School Committee, for instance, had 21 Whigs and 3 Democrats, while 83% of the members of the Grammar and Primary School Committees in 1845 whose names and party affiliations could be obtained were Whigs.<sup>55</sup>

The first skirmish in the campaign to integrate the Boston schools was a textbook example of radical tactics. In 1843 and 1844, the secretary of the state school board, Horace Mann, and others had publicly castigated the city's instructors for teaching by rote, general incompetence, and, particularly, for excessive corporal punishment. Opponents of segregation coupled separate petitions for integration from 79 blacks and 15 white Garrisonians with charges that Smith schoolmaster Abner Forbes used inordinate and inconsistent force in disciplining students and had become so antipathetic to black parents and children that he could no longer conduct the school effectively. Although a "trial" of six and a half full days, complete with opposing counsel and 86 witnesses, largely exonerated Forbes, as a less extensive investigation had cleared Bascom in the 1830s, the issue did focus the attention of both blacks and whites on black education, consuming more of the School Committee's time, no doubt, than they had devoted to the Smith school over the preceding decade.<sup>56</sup> Nonetheless, the Grammar School Committee rejected by a vote of 17 to 2 a motion by George S. Hilliard, a rising Whig politician and future U.S. Senator Charles Sumner's law partner, to grant the petition for integration.<sup>57</sup>

Led by John T. Hilton, a hairdresser and a vice president of the Massachusetts Anti-Slavery Society, William C. Nell, Robert Morris, shortly to become Boston's second black lawyer, Henry L. W. Thacker, a bootblack, and Jonas W. Clark, a clothier, blacks launched a boycott that cut attendance by 30-40% and that subsided only when the Board replaced Forbes with a white abolitionist whom Horace Mann recruited because he shared Mann's dislike for beating children.<sup>58</sup> Perhaps raising the issue and demonstrating their ability to carry out a boycott and force the Board to dismiss a teacher were victory enough for the moment, but the black leaders must have been dismayed by the overwhelming defeat of Hilliard's integration motion. Not only did Grammar School committeemen believe in segregation, but they also apparently thought, as one put it, "that no School Committee could ever be elected that would for a moment entertain any such idea" as integration.<sup>59</sup>

The agitators turned their attention next to the legislature. In early 1845, Wendell Phillips drew up a statute banning school segregation, and he, Loring, and Garrison testified for the bill before the Joint Committee on Education of the General Court.<sup>60</sup> Both blacks and integrationist and segregationist whites from Nantucket (where the issue had not been settled in 1845) presented petitions concerning the legislation. Efforts to elicit public backing from the influential Horace Mann failed, although Mann later claimed to have worked for the bill privately.<sup>61</sup>

A law relating to school integration in the nineteenth century, when nearly all children walked to school, and cross-district or metropolitan integration was therefore physically impracticable, might take one of several forms. On the extreme integrationist end of the spectrum, a law might entirely ban schools that solely admitted members of the minority race. The Massachusetts Liberty Party proposed such a law in January, 1845, but it did not

reach the floor of the legislature.<sup>62</sup> Next, a provision might prohibit the exclusion of any child from *any school whatsoever* on account of race or color, or, less precisely, for "unlawful" reasons. An amendment offered on the floor of the state senate by Henry Wilson, future U.S. Senator and Vice-President in Grant's second term, embodied the more specific form, and may well have been Phillips's original bill. The version reported out of the Education Committee, which was referred to during floor debates as a compromise, forbade only "illegal" exclusion from any school, leaving the question of the licitness of segregation up to the courts.<sup>63</sup>

Even more ambiguous was a statement that no child could be completely barred from *public school instruction altogether* because of race. A crucial amendment in this form successfully proposed by a Boston Whig state senator who served simultaneously on the city's Primary School Committee watered down the bill even more, and provided school boards and the judiciary with yet wider discretion. In rural areas or small towns where few blacks lived, and where separate education was physically and financially infeasible, however, such a law, if enforced, meant that the schools would be integrated. Many nineteenth century northern and border states, but not Massachusetts, at least temporarily enacted laws requiring or allowing localities to establish separate schools when there was some minimum number of black children in a district. Finally, the codes might make no mention, even indirectly, of race, they might require segregation in big cities or throughout the state, or they might prohibit blacks from the public schools altogether. The Massachusetts school code before 1845 did not contain even an implicit reference to race, and the Commonwealth never followed other states in sanctioning segregation by statute. Naturally, there were variations on each of these basic forms, and in practice minor changes often made a great deal of difference.

Both the senate and the house extensively debated and wavered between the "any school" and "public instruction" forms of the law, and the version that finally passed did not explicitly allude to race at all, providing only that "any child unlawfully excluded from public school instruction" could recover damages against a school board in court.<sup>64</sup> Had the legislature adopted the Wilson amendment, the *Roberts* case might not have occurred, and would almost certainly have been won. Had it accepted even the original committee compromise, the ingenuity of the courts would have been strained to continue segregation. As it was, all the integrationists accomplished by the 1845 law was the explicit establishment of the right to sue.

Simultaneously with their drive in the legislature, Boston blacks and their "anti-institutionalist" white allies moved forward in yet another forum, the Primary School Committee.<sup>65</sup> In 1845, the crusade was led by longtime committeeman Henry Ingersoll Bowditch, a leading physician who eventually became a professor at Harvard and President of the American Medical Association as well as of the nation's first state board of health, and in 1846, by Bowditch and Edmund Jackson, a merchant and, like his brother Francis, a Garrisonian.<sup>66</sup> After losing the first year by a vote of 55 to 12, Bowditch, who retained his office in the Garrisonian New England Anti-Slavery Society even after he renounced its anti-political stance and became a Free Soiler, offered a compromise motion to allow blacks freedom of choice. The separate schools would be continued, and blacks could attend them if they wished, while those who lived nearer to common schools could opt to go to them.

This temporizing gesture attracted only 16 votes, while 59 members of the Primary School Committee pronounced segregation "not only legal and just," but "best adapted to promote the education" of black children. The majority did agree informally, however, to abandon the absolute color bar by allowing children who lived considerable distances from the "colored" schools to attend the common schools, and in a few instances, some even before 1846, black students were allowed to enroll in "white" schools.<sup>67</sup>

The Primary School Committee's decision in 1846 was reinforced by an opinion upholding the legality of school segregation written by the City Solicitor, Peleg Chandler, a fervent opponent of the abolitionists who had the year before voted in the General Court's Education Committee to weaken the Phillips bill and who later served as counsel for Boston in the school segregation case.<sup>68</sup> Just as Chandler maneuvered in the legislative, administrative, and judicial arenas to preserve segregation, the integrationists, having met with little success in the first two, turned to the third. In 1847, and again in 1848, Benjamin F. Roberts, a printer, succeeding in registering his daughter Sarah at a "common" primary school. After a few weeks, however, she was expelled on grounds of color. Roberts therefore asked the Common Pleas Court, through his lawyers, Robert Morris and Charles Sumner for a *mandamus* ordering the city to accept her.<sup>69</sup> By the time Roberts appealed to the state Supreme Judicial Court, where he received an adverse opinion written by the prestigious Chief Justice, Lenuel Shaw, the blacks had once again petitioned the Grammar School Committee, which defeated a motion by the Whig politician and lawyer Charles Theodore Russell to allow blacks to choose whether to attend "exclusive" or neighborhood schools.<sup>70</sup> The Committee also tried with some success to divide the black community by replacing Ambrose Wellington with the black Thomas Paul, Jr., at the Smith School, and it had extensively refurbished that school in response to repeated denunciations of the physical condition of the building and equipment by people on and off the Committee.<sup>71</sup>

Proponents and opponents of integration made the same types of arguments whatever the forum. To separate out those made in courts, as much legal history does, is thus to fragment the historical record misleadingly. Since the basic contentions of each side did not change over the decade--indeed, not over the century and not much since--it is appropriate to summarize them in one place. Table 1 lists the sources of every discussion in Boston and Nantucket during this period that I have found that contained an argument (not just a slogan) for or against school segregation. Besides quoting examples of these contentions in the text, I have indicated in Table 2 the frequency with which each was offered, in an effort to measure how much emphasis their expositors put on them.<sup>72</sup>

The fundamental argument against school segregation was that governmental agencies had no right to use race as a criterion for treating citizens differently.<sup>73</sup> It was "arbitrary," "unreasonable," unfair, not warranted by any constitutional or statutory provision, and, indeed, contrary both to the explicit provisions of the Massachusetts Declaration of Rights and to the egalitarian premises that underlay the American legal system and those of Europe that shaped ours.<sup>74</sup> In the words of 86 black petitioners to the Primary School Committee in 1846, segregation "deprives us of those equal privileges and advantages in the public schools to which we are entitled as citizens."<sup>75</sup> As before the committee, so before the court. The "fundamental right of all citizens," Sumner wrote in his *Roberts* brief, was "Equality before

the Law." While the school committee could legally classify children according to age, sex, or "moral or intellectual qualifications," it could not "assume, *a priori*, and without individual examination, that all of an *entire race* are so deficient in proper moral and intellectual qualifications as to justify their universal degradation to a class by themselves."<sup>76</sup>

That, of course, was just the assumption that the school committees did make. The blacks' "peculiar physical, mental, and moral structure," the majority report of the 1846 Primary School Committee asserted, "requires an educational treatment different, in some respects, from that of white children," because blacks learned by rote and imitation, while whites relied on "the faculties of invention, comparison, and reasoning."<sup>77</sup> Segregation was thus best for both races, for, the committee asserted, separation did not insult blacks; rather, "Amalgamation is degradation." Black schools had been established by the committee, Chandler said in his oral argument in *Roberts*, "for the benefit of the colored people," and to eliminate them, their opponents would have to show that the schools "were not intended for the best good of the children, both colored and white."<sup>78</sup>

Thus, both sides combined policy or philosophical arguments with what would now be labeled equal protection and due process considerations. It is misleading to conclude, as Schultz does, that "Sumner's argument relied as much on a moral appeal as on an issue of law," for the two were inextricably intertwined.<sup>79</sup> All parties agreed that the power to govern the schools inherently carried with it the authority to distinguish among school children on some, but not all possible grounds, and all agreed that the Massachusetts Declaration of Rights explicitly and the common law implicitly guaranteed citizens equal treatment so long as the criteria were, as Shaw put it in his opinion for the Supreme Court, "founded on just grounds of reason and experience, and . . . the results of a discriminating and honest judgment." The issues were what criteria were reasonable, and what justifications for unequal treatment would pass muster with courts or public opinion. No one assumed that every distinction and every warrant would be satisfactory. If the school committee had limited entrance into the Latin High School to the offspring of Whigs, for instance, or barred from it those of immigrants, mechanics, or day laborers, they would no doubt have been able to produce some rationale for their decision--probably only a few Democrats wished to apply and their presence might offend some high-toned Whigs, rich men paid more taxes, or family background was, then as now, a good predictor of academic success. Indeed, integrationists in and out of courts charged at the time that a classification on the basis of race could justify those on the lines of class, religion, or national origin as well. To hold the distinction up to ridicule, Nantucket abolitionists, for example, moved in the 1843 town meeting to "establish a School for all Children having Red Hair."<sup>80</sup> But courts would no doubt have been skeptical of the "honesty" with which a school board that contained no mechanics, no Catholics, and few Democrats had arrived at their conclusion--a structural due process criticism--and would have unquestionably considered such a departure from equality "irrational," because even though party or class and school achievement were correlated, the correspondence was not one-to-one. To approve racial segregation, judges did not have to agree that it was the best of all possible policies. What they did have to claim to have determined was, first, that school authorities sincerely believed that race was different from other potential criteria, and that segregation was best for black as well as white children; and, second, that race was in fact so connected with learning that it could made good sense to separate students. The

former was an intent criterion, and it explains why school boards paraded their rhetorical good will to blacks so ostentatiously. The latter was an effect criterion, and it accounts for the inclusion of the "equal" part of "separate but equal."<sup>81</sup>

The second abolitionist argument was that segregation reinforced existing prejudice, while intermixture tended to break it down. Segregationists disagreed on each count, and both sides appealed to folk sociology. Segregation, Jackson and Bowditch wrote in their 1846 minority report, was "morally injurious to the white children, inasmuch as it tends to create in most, and foster in all, feelings of repugnance and contempt for the colored race as degraded inferiors, whom they may, or must, treat as such. . . . One of the great merits of our system of public instruction is, the fusion of all classes which it produces. From a childhood which shares the same bench and sports, there can hardly arise a manhood of aristocratic prejudice, or separate castes and classes."<sup>82</sup> The purpose of the common schools, Russell asserted in his 1849 Grammar School Committee minority report, "seems to be, and their whole influence is, practically to teach the great theoretical principle of our government, that 'all men are born free and equal'."<sup>83</sup> Sumner's brief exuded abolitionist perfectionism. "Prejudice," he insisted, "is the child of ignorance. It is sure to prevail, where people do not know each other. Society and intercourse are means established by Providence for human improvement. They remove antipathies, promote mutual adaptation and conciliation, and establish relations of reciprocal regard."<sup>84</sup> Thus, while the first criterion was pure nondiscrimination, the second viewed integration as a positive good. From the beginning of the debates on the legality of racial discrimination in America, the liberal side conjoined the rationales that were later identified as the "*Briggs*" dictum" of Appeals Court Judge John J. Parker and the more thoroughgoing pro-integration stance of *Green v. New Kent County*.<sup>85</sup>

The majority report of the 1849 committee covered the abolitionists' optimism with ridicule. "Custom," not governmental practice, was the source of "the massive wall of prejudice," and "the destruction of the Smith School would be but the fall of the puniest out-work."<sup>86</sup> Chief Justice Shaw echoed the opinion of the committee, on which he had served during the 1820s. "[T]he odious distinction of caste," he believed, was "founded in a deep-rooted prejudice in public opinion. This prejudice, if it exists, is not created by law, and probably cannot be changed by law."<sup>87</sup>

Rather than undermining bigotry, the school committee and one faction of Boston blacks speculated, integration might strengthen it; rather than a chance for a better education, it might offer them a worse. If Smith were abolished, John H. Roberts, a black day-laborer and opponent of the move, predicted, "The poor and ill-educated colored children of the West End would be brought into disadvantageous competition and association with the more advanced and wealthy white children . . ." Suffering "sneers, insults, assaults, jeers," they would be isolated from their white peers informally, and "embarrassment would retard their progress."<sup>88</sup> Black schools, by contrast, offered a "retreat--an asylum secure from the taunts and reproaches heaped upon the innocent children" which should be retained for those "who were unwilling to suffer the persecution to which they would be exposed in a school where the great majority were of the favored complexion." The black schools were "characterized by the spirit of equality, of enterprise, of emulation and friendship . . ."<sup>89</sup>

Mocking forebodings of harassment as "bug-bears," black abolitionists welcomed the

competition with whites and counted its absence a disadvantage of caste schools. "The present exclusion of our children from the best schools and from competition in learning with white children," the signers of the 1844 petition contended, ". . . is calculated to repress an honorable ambition. People are apt to become what they see is expected of them. It is very hard to retain self-respect, if we see ourselves set apart and avoided as a degraded race, by others."<sup>90</sup> Or, as Sumner put it in his *Roberts* brief, segregation deprived blacks "of those healthful, animating influences which would come from participation in the studies of their white brethren."<sup>91</sup>

Such statements, the majority on the school committee of 1849 countered, proved that integrationist blacks were "ashamed of themselves" and that they and "their officious advisers" among the whites believed "that a white skin was really better than a dark one."<sup>92</sup> "Let them cultivate a respect for themselves, for their own race, . . ." the Primary School Committee majority report of 1846 exhorted. "Let them not come to us with the humiliating confessions, that they cannot make their separate schools as good as those for white children . . ." and that they need "white children to pull them up.. . . Do colored people contaminate colored people by being together?"<sup>93</sup> How a black community with sparse economic resources, little social standing, and no representation on the governing bodies, whose neglect of the uncommon schools was freely admitted except when they were rebutting arguments for integration, could accomplish such a transformation, the committees never said, and Sumner pounced on the point in his brief. In a common school, ". . . the poor, the humble, and the neglected not only share the companionship of the more favored, but enjoy also the protection of their presence, which draws toward the school a more watchful superintendence."<sup>94</sup>

The fourth inequity stressed by the abolitionists was distance. Had the five-year-old Sarah Roberts attended the caste primary school nearest her home in 1847, she would have had to pass five common primaries on the way.<sup>95</sup> Other black children had to travel even farther, some having to cross the Charles River by ferry, while no white youngster of tender age had nearly so lengthy a walk in the Boston winter.<sup>96</sup> That it took no acceptance of high-flown rhetoric or abstruse legal reasoning, or even a conscious rejection of the widespread white belief in Negro inferiority to empathize with black children traipsing through the cold may account for the repeated stress that nineteenth century integrationists put on this aspect of inequality. A tired, frozen child of whatever hue was an object of sympathy.

Faced with a powerful image of oppression, the authorities used discrimination in housing, as their counterparts would 130 years later, to justify school segregation.<sup>97</sup> Because the overwhelming majority of Boston blacks, unlike those in other Massachusetts towns, were confined to a small geographic area, few were remote from the separate schools. Moreover, white adolescents who attended high schools (from which blacks were excluded) and white children who dwelt elsewhere in the state sometimes had to walk even greater distances.<sup>98</sup>

The abolitionists seemed reticent to emphasize other factual inequalities, probably because they wished to stress the principle that race was not a permissible dividing line, and because criticisms of the quality of the black schools might be interpreted as deprecating the character of black students, thereby increasing white fears that integration would cause the common schools to decline.<sup>99</sup> They did note, however, that even though the cost per attendee doubled that in the white schools, the range of grades offered in Smith was less than

that available elsewhere, and the reports of their visiting committees were almost always dismal. "[T]he result in education conferred," Jackson and Bowditch declared, "is in inverse ratio to the expenditure."<sup>100</sup> Officials responded by blithely asserting that the exclusive schools were "just as good" as the white ones, or declaring that the expenditure differential reflected boycotts or a lack of appreciation for education among blacks, or even that it indicated the committee's good faith toward black schools.<sup>101</sup>

In a last, highly rhetorical argument, the integrationists urged that ending racial exclusion would be a strike against slavery. The same specious paternalistic reasoning that represented segregated schools as a kindness to blacks, Jackson and Bowditch observed, defended slavery as a positive good. Northern examples, moreover, buttressed the southern case. "Every mark of degradation put upon the blacks here," Russell remarked, "is cited elsewhere in support of slavery."<sup>102</sup> Not wishing to defend the peculiar institution in overwhelmingly antislavery Massachusetts, the advocates of Jim Crow did not respond.

Since it was difficult to maintain an appearance of good faith in the face of overwhelming opposition by blacks, the school committees made great efforts to prove that blacks wished to maintain the segregated schools. They resurrected the 1800 petition from Prince Hall, and responded to the suggestion that opinions might have shifted since that time by charging blacks with fickleness and disrespect for their forefathers.<sup>103</sup> Painstakingly comparing names on petitions and counter-petitions with city directories and school rolls, the committees denied the black integrationists' claims to speak for the black community or at least for its more respectable members. Unable to dispute the fact that the opponents of caste schools enjoyed broader support among Afro-Americans than those who wished them retained, the committees fell back on the position that not all the opponents had children who were eligible to attend, and that only a minority of parents of current school children signed petitions asking for abolition.<sup>104</sup> Claiming to represent the "true interests" of blacks, the committees and their defenders in the white press desecrated the shadows of the white abolitionists behind the scenes. The protests took place, the Democratic *Boston Post* intoned, "because a parcel of rabid enthusiasts, pretending to be friends of the colored people, chose to meddle with matters that did not concern them, and with a system which was working prosperously, in all love and harmony."<sup>105</sup> Not to be outdone in this line, the 1846 Primary School Committee majority report played the mulatto card. "[T]his petition," they surmised, did *not* originate in the wishes of the colored people,--certainly not in those of the real and unmingled African race."<sup>106</sup> Black integrationist leaders, who held their own public meetings and did not seek to obtain white signatures on their petitions from 1844 through 1849, avowed themselves the originators of the struggle and did not bother to respond to the attempt to set Afro-Americans of different shades of brown against each other.<sup>107</sup>

Whatever the prevalent black view, those who governed a city and state that was 98% non-black had to pay more attention to the whites. During the 1845 debates in the state senate, John Henry Clifford, later a Whig attorney-general and governor, opposed the bill because he "was unwilling to sacrifice the larger portion of the scholars for the benefit of the lesser."<sup>108</sup> Nothing else could have aroused more ire in the "Natick cobbler" Henry Wilson, son of a wretchedly poor drunk, unschooled, apprenticed at ten, so ashamed of his birth that he changed his name at 21, an entirely self-made man who never forgot his origins. The General Court's "imperative duty . . . was, when complaints were made of the invasion of the



rights of the poorest and humblest, to provide a remedy that should be full and ample to secure and guard all his rights." Anticipating the phraseology of the 1866 Civil Rights law, which he voted for in the U.S. Senate, Wilson equated integration with a guarantee to each child of the "full and equal benefits of our public schools."<sup>109</sup>

Integration, opponents charged, would result in diminished public support for the schools and white flight, which would shortly produce resegregation. "[M]any scholars," the 1846 Primary School Committee majority report warned, "would be driven from our schools by such a change. Many parents would not suffer their children to associate with colored children; and these, too, from among the class who most need instruction; for the prejudices against colored people are strongest among the most ignorant."<sup>110</sup> Three years later, the *Boston Post* elaborated on this scenario, but maintained that it was the wealthy whites of the West End who would flee. "The consequences of the abolition of the Smith school," according to the *Post*, "would be a great excitement, hard thoughts, political action, the revival of old prejudices, and, finally, the secession of the whites from some of the finest edifices in the city, which, in turn, and *per force*, would become 'separate schools' for the blacks."<sup>111</sup>

Like the segregationist speculations, liberal rejoinders spanned much the same ground that they would in the twentieth century. Those whites who would depart the public schools if blacks were admitted, Charles Francis Adams announced, ". . . were unfit inhabitants for a republic . . . the sooner they went, the better," and the destination that he preferred for them was "across the Atlantic."<sup>112</sup> Responding to predictions that "the people of wealth and influence" would enroll their children in private schools, Henry Wilson invited them to ". . . do it. If any portion of our people have tastes and prejudices so strong that they cannot use our public schools if colored children are admitted, let them gratify their tastes and indulge their prejudices at their own expense, and not infringe upon the rights of others."<sup>113</sup> Wilson as well as other integrationists doubted, however, that many whites would leave, and they cited the examples of New Bedford, Salem, and Nantucket as evidence. The influx of black children, Jackson and Bowditch predicted, would cause less difficulty than that of the much larger number of Irish, and complaints about blacks would ". . . soon decline and die out, especially if the district and local committees should discharge their duty with firmness, tempered with discretion and mildness. . . ."<sup>114</sup>

Justifications designed for public consumption are not the same as private motives. Their own antipathy toward blacks and their perceptions of the white electorate's no doubt played a larger role in the behavior of the school committees, their lawyer, press defenders, and Shaw's decision than any of them emphasized. Indeed, the fact that the balance of comments by the Boston segregationists so heavily stressed their protestations of good faith and denials that blacks wanted integration (there were five times as many remarks along those lines as there were openly biased ones) should be taken as an indication of how weak they believed their case in the courts of law and of public opinion. The legal and moral presumptions in favor of equality were, they apparently believed, the rule; inequality, the exception. They did not usually broadcast such comments as those in an 1848 letter of one committee member to another: "There are some feelings inherent in our nature, which are paramount to all laws and of such is perhaps the distinction and natural separation between the colored and white races--as against the vain arguments of the philanthropists or the

teachings of [C]hristianity."<sup>115</sup> It is hard to take seriously the 1849 Grammar School Committee majority report's claims that its "opinions have been shaped not only by the firmest convictions of truth and right, but by a tender regard to the best interests" of blacks.<sup>116</sup> As Wendell Phillips remarked of similar protestations by Peleg Chandler, "Of course we do not believe, any more than Mr. Chandler, that this Committee ever dreamed that in maintaining such schools, they were really consulting the best interests of the colored child. Such things are said only because something must be said, and [they are] believed, if at all, only by those weak men who take print for proof."<sup>117</sup>

Shaw's opinion was no more credible. Whereas, in *Roberts*, he dismissed the guarantee of equality in the Massachusetts Declaration of Rights as mere advice to the legislature, rather than a tangible yardstick against which judges might measure the constitutionality of legislative or administrative acts, he had used it in an 1836 case to ban slavery (which had been safely dead for fifty years in the state by then), and he employed other, no more specific clauses in the Declaration later to outlaw liquor prohibition and indictment by "information," instead of by grand jury.<sup>118</sup> Further, legislative silence on a topic, he announced, without supporting reasons or citations, meant not that regulation by lesser bodies was prohibited, but that it was not constrained.<sup>119</sup> Instead of the constitution, Shaw substituted the entirely unguided, judge-made, common law standard of "reasonableness," which had been invoked previously in the Commonwealth to throw out a sewer assessment scheme that the judges did not like and to approve other municipal regulations that they agreed with.<sup>120</sup> Although the reasonableness test cabined interpretation no less than did the constitutional criterion of equality, it did seem to free judges psychologically to write their own values into the law without feeling any necessity to produce elaborate rationales for their decisions, and Shaw did not do so.<sup>121</sup> There was no dissent in the case, for Justice Richard Fletcher, apparently because he had issued the extra-judicial advisory opinion about school segregation in Salem in 1844, before his appointment to the Supreme Court, recused himself, thus beginning a long line of honorable but unfortunate actions by racially liberal judges in school racial discrimination cases.<sup>122</sup> Illiberal judges like Shaw, who represented the decision in *Roberts* as unanimous, followed a different course.<sup>123</sup>

While the *Roberts* case was pending, the *Boston Post* predicted that if the court upheld segregation, ". . . no more, doubtless, will be heard from 'colored petitioners' . . ." The *Liberator* disagreed, promising that if the court decided adversely, "the work of popular agitation is only begun."<sup>124</sup> Enjoying special access to the black community, the *Liberator* proved the better prophet.

Even before *Roberts* was argued in December, 1849, black integrationists had begun another boycott, which disrupted registration in the fall of 1849 and cut black average attendance at Smith, which had been 106 in 1846, to 25 in 1849. What would in the 1960s be termed "freedom schools" were set up, taught by black and white volunteers and supported financially by Loring, Phillips, Jackson, and other wealthy white abolitionists, in an attempt to assure that the boycotters' studies would not suffer.<sup>125</sup> Between December, 1849 and April, 1850, when the decision in *Roberts* was announced, black and white abolitionists began contingency planning for a legislative campaign, should they lose in court.<sup>126</sup> Although the 1850 General Court adjourned too soon after the *Roberts* decision for the integrationists to

mount a legislative campaign, Benjamin Roberts toured the state circulating petitions, and with the help of the Massachusetts and New England Anti-Slavery Societies, a bill prohibiting the exclusion of a child from any school "on account of race or color"--the Phillips-Wilson bill of 1845--was introduced in the 1851 legislature.<sup>127</sup>

A narrow and fragile Free Soiler/Democratic coalition majority in the 1851 General Court gave the integrationists some hope, but two factors prevented a favorable result. First, the Whigs swept the Suffolk County delegation, as usual, and the cotton Whig faction in the lower house proved as responsive as ever to the "unanimous" plea of the Boston Grammar School Committee to defeat the bill.<sup>128</sup> Second, it took nearly four months for the legislature to choose Charles Sumner as the successor to Daniel Webster in the Senate, as Democrats balked at electing an antislavery radical. Before Sumner's election was assured, Free Soilers hesitated to press forward on related issues, for fear of alienating the Democrats, and afterwards, there was too little time remaining in the session to accomplish so significant a change.<sup>129</sup> This defeat and the resurgence of the Whigs in 1852-53 broke the back of the boycott and perhaps dispirited the school reformers, who lapsed into passivity for two years.<sup>130</sup>

They did press a test case in 1854 to see whether a child of racially mixed ancestry, who appeared white, could be forced out of the common schools. Compelled to defend the city's action in his position as city solicitor, George Hilliard, who had introduced the pro-integration motion in the Grammar School Committee in 1854, denounced segregation as "unjust" at the same time that he avowed that *Roberts* left the definition of race to the discretion of the school committees. Although sending Edward Pindall, who both seemed and claimed to be of overwhelmingly Caucasian and Native American ancestry, to a black school brought the absurdity of the "color" line home to several Boston City Council members, they could not move the Grammar School Committee.<sup>131</sup>

In 1852-53, the Free Soil/Democratic coalition concentrated on constitutional changes to increase rural representation in the legislature and to eliminate the majority-vote and at-large election provisions from the political structure, but even these changes failed in a popular referendum.<sup>132</sup> Ironically, the defeat of these electoral rule amendments and of constitutional provisions aimed at prohibiting government funding of religious schools set the stage for Whig disaster.<sup>133</sup> By 1855, nearly a third of the whites in Boston were Irish-born, and most of them were recent potato-famine immigrants. Coupled with the lingering outrage over the Compromise of 1850, which a series of spectacular captures and trials of fugitive slaves repeatedly reinforced, and the north-wide uproar at the 1854 Kansas-Nebraska Act, the rapid change in demographic composition offered ambitious politicians another opportunity to break the Whig monopoly of power. Wily free soilers, led by the masterful manipulator and steady foe of racial discrimination, Henry Wilson, used their years of experience in complicated coalition campaigns to infiltrate the burgeoning "American" or "Know Nothing" party, and a four-way contest in the 1854 state elections resulted in a shocking decimation of the Whigs.<sup>134</sup> Garnering 63% of the vote, the Americans elected their governor, every congressman, and all but seven members of the General Court. Garrison termed the results "incredible," the *Boston Telegraph*, "a remarkable revolution," the *Boston Post*, "astonishing."<sup>135</sup> But Garrison's ironically intended post-election jibe that this was "a curious method of securing a Free Soil majority in both branches" of the General

Court turned out to be prescient.<sup>136</sup>

When the legislature met, the leader of its school integration forces, Charles W. Slack later coyly remembered, "it was a very singular and somewhat unexpected thing to find so many anti-slavery men. . . . He did not know how it happened . . ." To the Democratic *Boston Post*, the plot had been clear earlier. Know-nothingism was, the paper opined, "but freesoilism in disguise . . . in place of promises it silently, everywhere, puts *abolitionists in power*."<sup>137</sup> After electing Henry Wilson to the U.S. Senate, passing a tough "personal liberty" law over conservative governor Henry J. Gardner's veto, and almost impeaching a judge for adhering to the federal fugitive slave law of 1850, the General Court passed a school integration bill that had been revised by future war governor John A. Andrew and shepherded through the legislative process by Slack.<sup>138</sup> While the Whig papers were still apparently too numbed by their party's defeat to devote much attention to the bill, the Catholic *Boston Pilot* interpreted the desegregation bill as "an insult" to Catholics in the public schools and the Democratic *New York Herald* harangued: "The North is to be Africanized. Amalgamation has commenced. . . . God save the Commonwealth of Massachusetts!"<sup>139</sup> Although the school committee half-heartedly reopened Smith in the fall of 1855, blacks were allowed to enroll their children in common schools, and so many did that the authorities soon fired Thomas Paul and closed down the *de jure* caste schools of Boston forever. Only a half-dozen of the remaining Whigs on the by then overwhelmingly Know-Nothing school committee held out for segregation on the final roll call. There was little reported white flight or harassment of black students, and what there was lasted only a short time.<sup>140</sup>

What differentiated Boston integrationists from their opponents in each racial group? Why did the racial segregation of the tiny black minority in Boston's schools persist for so long, and why did the barriers fall when they did? What was the significance of the episode for the history of racial discrimination in schools in nineteenth century America?

As in many internecine battles, the bitterness of the black factional conflict seemed inversely proportional to the actual policy differences between the two sides. An integrationist meeting charged that Thomas Paul, Jr., who was seeking the principal's job at Smith, had allowed himself ". . . to be used as a TOOL . . ." by white segregationists.<sup>141</sup> Longtime Garrisonian John T. Hilton attacked Paul's nephew, Thomas Paul Smith, the leader of the opposition, as an ally of "John C. Calhoun, Henry Clay, the American Colonization Society, and the entire pro-slavery community." Benjamin Roberts termed Smith "a young ambitious bigot" out for his own "selfish gratification," and Robert Morris, the black lawyer, accused Smith of soliciting the mastership for his relative in return for cash.<sup>142</sup> An escaped slave, Henry Bibb, compared the competing faction to southern black "traitors" who foiled the plans of other slaves to escape or revolt by exposing the schemes to whites.<sup>143</sup> In return, Smith and his followers disrupted integrationist meetings, in one instance violently, labeled white schoolmaster Ambrose Wellington an ineffectual teacher and an infidel, added to their petitions the names of at least twenty people who did not sign them and may not have approved, and gained the endorsement of a prominent black New York teacher by misrepresenting the object of their campaign.<sup>144</sup>

In fact, although the Grammar School Committee disingenuously avoided mentioning it,

the "points of difference" between the two black groups were, in the words of Thomas P. Smith, "in reality very trifling."<sup>145</sup> Smith, who, along with Thomas Paul, had signed earlier petitions in favor of abolishing the black schools altogether, specifically endorsed the Bowditch-Jackson-Russell compromise allowing blacks freedom of choice and prohibiting exclusion on racial grounds from any common school, although he also spoke favorably of black-only schools.<sup>146</sup> Many of the black integrationists, including Benjamin Roberts, had endorsed Paul for the job at various points from 1845 to 1848, apparently preferring a black master over a white one, if the school was to remain segregated. Thirty-five blacks, having second thoughts, later authorized Roberts to ask the Grammar School Committee to remove their names from Paul's endorsement petition.<sup>147</sup> The integrationists held numerous meetings in black churches (only one conclave of the T. P. Smith group was reported) and petitioned separately from their white friends between 1844 and 1855. To attain the goal of treating individuals as if race did not matter, they had to employ segregated or group means. Moreover, to insure the scattering of black children, they adopted what would in the 1980s be called a "race-conscious" remedy--closing the "colored" schools altogether. Nor were the school committees consistent. Although they mouthed black pride slogans in their reports, the Grammar School Committee twice refused to hire Thomas Paul, who suffered from chronic ill-health, performed badly at interviews, and seems to have proved a timid, ineffectual teacher.<sup>148</sup>

What distinguished members of the two black cliques? Among the leaders, the chief differentiating trait was the closeness of the connection to Garrison. Of fourteen officers at integration meetings, John T. Hilton had long been a Vice-President of the Massachusetts Anti-Slavery Society, Nell had been an apprentice and reporter on the *Liberator* and an officer of the Massachusetts and New England Anti-Slavery Societies, William J. Watkins's family had befriended Garrison when he was in a Baltimore jail, and most of the rest had participated in at least local Garrisonian meetings. On the other hand, T. P. Smith, who was only 21 years old in 1849--Hilton was 48, Nell, 33--had broken with Garrisonian nonpartisanship to endorse the Free Soilers in 1848.<sup>149</sup>

The integrationists at the time claimed to be "the cream of the colored population. We have the property and intelligence with us."<sup>150</sup> Although several of the numerous petitions to the school committees, including the integration petition with the most names on it, do not appear to have survived in the committees' records, papers containing over 250 decipherable signatures are extant.<sup>151</sup> Traces of the occupations of all of the signers in the 1844-49 city directories yielded Table 3, which also includes figures on comparable occupational classifications for black males over fifteen in most of the state in 1860 and for all blacks listed in the 1847-48 Boston city directory.<sup>152</sup>

Table 3 supports the integrationists' claims. Over half of the signers of Paul's petition were laborers, recorded no occupation, or were not listed in the directories (rows 13, 18, and 19); whereas, the comparable percentage on petitions to abolish the Smith school was 27.3. The Paul group's proportion in these categories was comparable to that for the state for laborers, porters, and servants (rows 13 and 15), and higher than that for the Boston city directory as a whole in the laborer and no occupation classes (rows 13 and 18). While those who sought a black teacher for black students were fairly representative, occupational, of average blacks in antebellum Boston, the integrationists constituted an elite.<sup>153</sup> Table 2 also

suggests that the integrationists, much more than the black teacher advocates, made up a network. 55.1% of the abolitionist forces, compared to 25.2% of the opposition, 28.9% of the state's males, and 32.4% of the city directory listings, clustered in just three occupational groups--clothing, haircutting, and waiting (rows 1, 2, and 9). Concentrated in close-knit and relatively prestigious occupations, the integrationists were more capable of sustaining a movement than their more diverse and probably more geographically mobile competitors.<sup>154</sup>

A third implication of the table is that black operators of independent businesses who probably dealt with whites most often did not shrink from protest for fear of losing white trade.<sup>155</sup> Black barbers or hairdressers such as Hilton, caterers such as Joshua B. Smith, or clothiers and tailors such as Thomas Dalton or Henry Weeden most likely depended on white customers. The interracial contact apparently made integration seem less unusual and less threatening to them than to their black critics. On the other hand, those whose work lives made them subordinate to whites, servants and laborers, were unlikely to sign either petition. A connection with whites was insufficient to foster activism; the interaction had to be between those in fairly equal positions.

The level of participation--black integrationists held at least fifteen public meetings in 1849 alone--indicated how significant blacks considered the issue.<sup>156</sup> According to the 1860 U.S. Census, 704, or 30.8% of Boston's 2284 blacks were adult males. Applied to an 1850 population of 1999, this ratio yields an estimated adult male population for the earlier date of 616. A critic, probably T. P. Smith, acknowledged that about 300 blacks had attended one or more of the integrationist meetings, and since a reported vote in favor of abolishing the caste schools at one meeting was 159-0, 300 for all of them does not appear too high.<sup>157</sup> Since few women or children took part, this figure amounts to approximately 40% of the relevant population--a very high figure for a poor, not well educated, frequently transient group. Combined with those who signed the Paul petitions, the proportion of blacks who recorded an opinion on the issue surely reached a quarter of the adults of both sexes. Despite the disparaging comments of the Grammar School Committee, the nature of their children's education clearly deeply concerned Boston blacks.<sup>158</sup>

And that opinion just as clearly favored the end of exclusion from common schools on account of race.<sup>159</sup> No strictly segregationist banner was raised by either black faction, but only by the white school committees. Actions taken by the integrationists involved much higher levels of participation--attending meetings, actively boycotting--than did the ones taken by those who wished to preserve black schools, who only had to sign petitions. In the fall of 1855, when the black schools remained open, and when those who wished to keep them open could have done so by enrolling their children there, less than ten did so.<sup>160</sup> The Hub City's blacks agreed overwhelmingly that enforced segregation was wrong, and most wished their own children to attend schools in common with those of other citizens.<sup>161</sup>

At its January, 1856 meeting, the Massachusetts Anti-Slavery Society greeted the abolition of separate schools as "the triumph of law and justice over the pride of caste and *wealth* . . ." In a speech at that convention, Wendell Phillips remarked that "The Whig party left it [the segregated school system] a legacy to the wealth of Boston."<sup>162</sup> Statistics bear out the Garrisonians' charges and cast doubt on the Grammar School Committee's claim that prejudice was most prevalent among the lower orders of whites.

As Table 4 shows, the school committees that blocked integration in the 1840s were solidly dominated by Whigs.<sup>163</sup> Of those who ran for election on party tickets or participated sufficiently in party activities to be mentioned in contemporary newspapers, 57% were Whigs. Although Table 4 also shows that Democrats were even less likely than Whigs to support integration, the fact remains that there were too few Democrats on either committee at any time to come close to determining the outcome. The real divisions were between the overwhelmingly segregationist Whig activists and the men who seem to have abjured partisan politics, apparently serving on the appointed primary committee as a matter of civic duty, and, even more strikingly between the partisans of the two major parties of the 1840s and the Know-Nothings of 1855. Table 5 renders these notions more precise, demonstrating that there were statistically significant differences in voting patterns on integration at conventional levels between the major and minor parties (treating the unknowns as a minor party), but not between the two major parties. The Whig Establishment preserved segregation; to end it, that elite had to be overthrown.<sup>164</sup>

And it was a social and economic elite as well. Schultz's assertion that "Refusal to mix the races came most strongly from lower-class and immigrant parents . . ." receives no support from data about the decisionmakers.<sup>165</sup> Occupationally, the committees were dominated by professionals and merchants, who were hardly typical of Boston's population. For instance, no clerks, teamsters, carpenters, painters, tailors, or sailors, who together composed 31.4% of the males over 15 in Boston in 1860, appear to have served, and none of the committeemen during this period had an obviously Irish surname. On the other hand, the Establishment categories of bankers, clergymen, physicians, lawyers, and government officials made up 2.2% of the 1860 adult males, but at least 47% of the school committee members. The masses of whites may have supported school segregation, but it was the socioeconomic elite that articulated its rationale and kept it in force.<sup>166</sup> Another index of the relation of social status to integrationist sentiment is in Table 6. Searches of the 1850 U.S. Census and local histories located 41% of the persons who served each year on the committees.<sup>167</sup> Of that 41%, who were geographically stable and/or notable, wealthy, or egotistic enough to merit biographical mention in the celebratory Brahmin histories, 80% who expressed an opinion favored segregation. Of the other 59%, less than 63% did.

Within these occupational categories, however, the only strong distinctions were between appointed government officials and the rest. No rearrangement or consolidation of categories distinguished integrationists from segregationists at all clearly. Nor was there a statistically significant difference across all occupational categories between integrationists and segregationists.<sup>168</sup> Whatever turned a member of the elite toward racial liberalism was not systematically related to his occupation. (See Table 7) The parties did have different socioeconomic profiles, however. 53% of the Whigs clustered in the Establishment professions, and only 3% of the Whigs had no occupations listed in the city directories of the period. (See Table 8) Less than a third fell into the mixed category of merchants and manufacturers, who ranged from artisan proprietors to major capitalists.<sup>169</sup> The few Democrats had somewhat less social patina than the Whigs, with fewer members at the bar and more unlisted. But the real distinctions were between the Whigs and those whose politics could not be determined, over half of whom were in business, and the Know-Nothings, only 43% of whose ranks were drawn from the Establishment.

Table 9 reveals that nothing but politics mattered. Because votes on integration can take only three values--for, against, and unrecorded--the dependent variable is "limited," and ordinary least squares regression is inappropriate.<sup>170</sup> Since several of the independent variables seem to fall into naturally ordered categories, I estimated ordered probit models.<sup>171</sup> The first eight equations of the table report predictions only among those who voted on the issue, while the last three equations also include those Grammar School Committeemen whose position on integration is unknown. In each case, the equations present the probit coefficients (which, unlike ordinary regression equations, have no simple intuitive interpretation), the associated "t" statistics in parenthesis, and, to assess overall predictive power, the log likelihood functions and percentages of correct predictions associated with each equation.<sup>172</sup> Overall, partisanship was a good predictor of integration sentiment, whether measured through a single four category variable, as in Table 4, or a series of "dummy" variables, but none of the social traits of the voter adds significantly to the political explanation.<sup>173</sup> A man's social background may have influenced his vote, but it did so only by influencing his party choice.<sup>174</sup>

One might have thought that in a community that favored segregation, a prominent role in opposition to it would damage a politician's career. The example of Charles Sumner, elected to the U.S. Senate less than eighteen months after he argued *Roberts*, suggests that the conclusion might be incorrect. Table 10, based on comparisons of lists of committeemen and members of the city council and General Court in elections through 1856, supports the Sumner example. Segregationists were not significantly more likely to be promoted than integrationists were, even though the vast majority of segregationist committeemen were Whigs, as were the vast majority of higher officeholders until 1855. Perhaps the more ambitious and competent were especially likely to back equality. Whatever the explanation, white public opinion was apparently not so solidly racist as to punish dissenters.

Why, then, did segregation last as long as it did? Why did the school committees fight so hard to keep 2% of the children separate from the other 98%? Why did people who articulated and enforced an ideology of the common school as a democratizing, homogenizing institution--who repelled as attempts to set up "exclusive schools" to cater to "private prejudices" proposals to create separate German-language schools or to provide public support for sectarian education - not apply the same general conception to blacks?<sup>175</sup> Certainly the self-confident Brahmin elite did not feel the heat of job or social competition from such a small, deprived group. The blacks were not about to throng into the Latin or English high schools or take away places at Harvard from the scions of the aristocracy. Neither was it that a majority of the articulate black community was satisfied with segregation or that the struggles by abolitionists of both races were inept or incomplete, for neither statement is true. It is difficult to imagine what more white abolitionists could have done to prove their sincerity or what additional political tactics could have been tried. The Garrisonians may have alienated potential antislavery allies by attacking the Constitution and the Union, but in this battle, they largely avoided denunciatory rhetoric and they compromised.

Nor will it do simply to say that blacks have always been treated as The Great Exception in American democracy, that pervasive white racism is a sufficient explanation for every particular discrimination.<sup>176</sup> After all, segregation was upheld only partly by democratically-elected officials, it was eliminated by an elected body, and in 1855 desegregation was quietly



accepted and there was no attempt to reverse it. Racism was obviously important, but it was neither omnipresent nor omnipotent. What made the challenge to school segregation so seemingly futile for so long was the racial view of the overwhelmingly majority of the elite combined with biased political institutions--the at-large, majority-necessary election system for governor and legislature, *de facto* nomination for the Grammar School Committee by Whig caucuses, self-perpetuation in the Primary School Committee, appointment for life in the Supreme Judicial Court. Only when Whig rule was overthrown and a new counter-elite with a leavening of men with non-Establishment occupations and a more democratic, antislavery ideology came to power was school segregation ended.

Just as racism was a necessary, but not a sufficient explanation of the longevity of school segregation, the campaign by black and white abolitionists was a necessary, but not sufficient cause of its demise.<sup>177</sup> The long crusade for antislavery and equal rights educated and pressured, but could not break through until a group of politicians that was more responsive to it took power.<sup>178</sup> The dominant Cotton Whig faction in Massachusetts upheld the national Compromise of 1850, enforced the fugitive slave law, did not accommodate the shift in public opinion towards antislavery after the Kansas-Nebraska bill, seemed unresponsive to native Protestant perceptions of the immigrant and Catholic "threat." At that point, the all-or-nothing political structure that had protected the Whigs from incremental change exposed them to an avalanche. Coupled with the fact that it was a nominally nativist force that outlawed racial discrimination, this should have been enough irony for any one event.

But it was not. The greatest irony was that the integration law and the fifteen-year struggle for it were of less consequence for later events than Justice Shaw's opinion, which he did not bother to justify, that segregation was reasonable. Enshrined in a widely available report, issued under the imprimatur of perhaps the most prestigious antebellum state judge, originating from the center of antislavery agitation, the decision provided a most convenient pretext for later judges who sought not reasons, but precedential excuses. Yet the opinion could have other consequences. Some judges might not be so willing as the Whig Establishmentarian Shaw was to accept at face value a school board's protestations of good faith toward black people or its assurances that the separate schools were, in fact, equal. They might then rule that segregation had a discriminatory intent in a particular instance. Or their unguided value judgments about the *effect* of segregation might not be in accord with Shaw's. In either case, *Roberts* could be honestly cited, but a different decision reached.<sup>179</sup>

The natural law/reasonableness basis of Shaw's opinion was typical of nineteenth century segregation cases. "[T]he most important purpose" of a judge, Shaw remarked in his first speech from the bench in the 1830s, is to apply the principles of a case "in a manner consistent with the plain dictates of natural justice . . ."<sup>180</sup> Natural justice spoke differently to Shaw than to Sumner, but each claimed to be listening to the same voice, one that could be embodied in constitutions, laws, or practices, but still remain behind, or, perhaps better, above them. What are now termed substantive due process or substantive equal protection standards--standards that impose on judges the responsibility to decide what they think is fair or reasonable--were central to the law long before the passage of the Fourteenth Amendment.

The abolitionists' rejoicing at their December, 1855 celebration was, as they realized,

partial, hopeful, and prospective. Few present that evening would have guessed that emancipation would be accomplished in less than ten years. Fewer still would have imagined that it would take a century after the death of slavery to guarantee in law "the supremacy of equal rights."

## FOOTNOTES

1. "Resolved, That believing as we do, that special legislation, regulated by complexion or any physical differences, is anti-Republican and anti-Christian, we shall ever be found using our best exertions for the supremacy of equal rights." Resolution introduced by William C. Nell, and adopted by a black meeting at the Belknap St. Independent Baptist Church, Aug. 27, 1849, printed in *Boston Liberator*, Sept. 7, 1849.
2. *Boston Liberator*, Dec. 28, 1855.
3. *Boston Liberator*, Dec. 28, 1855. On Nell, see *San Francisco Elevator*, Aug. 23, 1867, p.3; *Washington New National Era*, June 4, 1874; *Boston Commonwealth*, quoted in *San Francisco Elevator*, June 27, 1874, p.3; George W. Forbes, "William Cooper Nell," Ms. Ann. 282 (18), unpub. manuscript in Rare Book and Manuscript Room, Boston Public Library; Robert P. Smith, "William Cooper Nell: Crusading Black Abolitionist," *Journal of Negro History*, 55 (1970), 182-99; James Oliver Horton, "Generation of Protest: Black Families and Social Reform in Ante-Bellum Boston," *New England Quarterly*, 49 (1976), 249-51. Nell had graduated from the Smith School and had been associated with Garrison since he'd been an apprentice on the *Liberator* in the 1830s. On Phillips as the classic agitator, see Richard Hofstadter, *The American Political Tradition and the Men Who Made It* (New York: Knopf, 1949), 135-61. Phillips anticipated Mancur Olson Jr.'s enunciation of the "free rider principle" by more than a century. See Olson's *The Logic of Collective Action* (Cambridge, Mass.: Harvard Univ. Press, 1965).
4. *Boston Liberator*, Dec. 28, 1855. On Slack, who was a member of the liberal "Bird Club" and editor of its mouthpiece, the *Boston Commonwealth*, see William G. Bean, "Puritan Versus Celt, 1850-1860," *New England Quarterly*, 7 (1934), 78; and Dale Baum, *The Civil War Party System: The Case of Massachusetts, 1848-1876* (Chapel Hill, N.C.: Univ. of North Carolina Press, 1983), 56, 136-37, 166, 172; *Boston Evening Transcript*, April 11, 1885, p.4. Slack did not exaggerate about the way his report was put together. The handwritten draft in the Massachusetts State Archives is full of pasted-in segments of printed documents from the earlier years of the campaign that were probably supplied by Nell.
5. In 1887, the Ohio legislature mandated school integration by repealing a law authorizing school boards to segregate. In 1890, during an effort by white Democrats to reverse this decision, a correspondent of the state's leading black newspaper reminded readers of many of the facts of the Boston struggle a half-century earlier as part of the campaign to retain integrated schools. See *Cleveland Gazette*, March 29, 1890. For examples of similar appeals to the Boston example of Providence, Rhode Island, New York City, and Lockport, N.Y., see Arthur O. White, "Integrated Schools in Antebellum Boston: The Implications of the Black Victory," *Integrated Education*, 6 (1971), 134-35.

6. According to Donald M. Jacobs, Hall petitioned the Massachusetts legislature for a separate school in 1787, the petition reading, in part, ". . . our children . . . now receive no benefit from the free schools in the town of Boston . . ." See Donald Martin Jacobs, "A History of the Boston Negro From the Revolution to the Civil War," (unpub. Ph.D. diss.: Boston University, 1968), 35. The *Boston School Board Report, 1849* (Boston: J. H. Eastburn, 1849), 18-21, which contains a sketch of the black schools in the city, does not mention the 1787 petition, and states that up to 1810 or 1812, blacks ". . . were privileged to attend indiscriminately all the public schools in the town; a right which, very generally, was little availed of." See also Leonard W. Levy and Douglas L. Jones, *Jim Crow in Boston* (New York: Da Capo Press, 1874), 17-20.

7. The fund drive to establish the church raised money from both blacks and whites, including Wendell Phillips's father, Lt. Gov. John Phillips, and aimed from the beginning to include a schoolroom. See David Lee Child's 1833 "Report [to the Boston School Committee] on African Schools," quoted in George August Levesque, "Black Boston: Negro Life in Garrison's Boston, 1800-1869," (unpub. Ph.D. thesis, SUNY Binghamton, 1976), 495-96. The majority report of the Grammar School Committee in 1849, in Levy and Jones, *Jim Crow in Boston*, 145, said that public authorities may have begun appropriating money to the school only in 1812.

8. A white man served for three years during the period.

9. George A. Levesque, "The Black Leadership Class and Education in Antebellum Boston," *Journal of Negro Education*, 42 (1973), 510-11; Levy and Jones, *Jim Crow in Boston*, 17-20.

10. Quoted in Gerald Nelson Davis, "Massachusetts Blacks and the Quest for Education, 1638 to 1860," (unpub. Ed.D. diss., Univ. of Massachusetts, 1977), 151.

11. William H. Pease and Jane H. Pease, "Boston Garrisonians and the Problem of Frederick Douglass," *Canadian Journal of History*, 2 (1967), 30-48. Garrison's split with Douglass over political action, nonviolence, separate black organizations, and Douglass's newspaper was bitter, but so were many internecine struggles among white abolitionists. It is difficult to see that there was any special animosity in this quarrel that needs to be explained. Furthermore, the Peases seem to assume implicitly that the black abolitionists William C. Nell, Charles Lenox Remond, and Robert Purvis, who attacked Douglass and were savagely denounced by him in return, were merely following Garrison's lead. See *Boston Liberator*, Jan. 27, 1854. It appears as likely to me that he was following theirs, especially in the case of Nell, who was from the first issue in December, 1847, until June 30, 1848, the publisher of Douglass's *Rochester North Star*, but who later returned to Boston. Ironically in the light of his longtime leadership in the fight for school integration, Nell also taught in the segregated black school in Rochester. See Judith Polgar Ruchkin, "The Abolition of 'Colored Schools' in Rochester, New York, 1832-1856," *New York History*, 51 (1970), 382-86. There is considerable evidence, some of which is presented in the text below, against the Boston

School Committee's assertion that in the school integration struggle, the blacks were mere puppets of white abolitionists. This material should count by analogy in the parallel case of Douglass. For the charges, see Boston School Committee, *Boston Grammar School Report, 1849* (Boston: J. H. Eastburn, 1849), 66-67.

12. Friedman, *Gregarious Saints: Self and Community in American Abolitionism, 1830-1870* (Cambridge, Eng.: Cambridge Univ. Press, 1982), 170-73, and, generally, ch. 6, "The Chord of Prejudice." Friedman recognizes that white abolitionists fought for black civil rights, but claims that they did not admit blacks to their "intimacy groups," that there was a "diminishing flow of empathy" from white immediatists to blacks after 1830 (p.186). The stress on intimacy groups seems to me wrongheaded in an analysis of a public crusade. Since most evidence of day-to-day interactions is unlikely to have survived, the existing data on the extent, frequency, and quality of such behavior is undoubtedly underestimated or unknown. The measurement of "flows of empathy" between large numbers of people is impossible and the concept so vague as to be meaningless.

13. Schultz, *The Culture Factory: Boston Public Schools, 1789-1860* (New York: Oxford Univ. Press, 1973), 184-87, 158. Schultz's "leftist" castigation of integrationism as a mask for "social control," a theme central to his book and one that echoes conservative criticisms from 1840 to the present, is essentially empty. Representatives of every group want to structure "the social composition of American life along lines attractive" to them. That is, they would like their own preferences to prevail. Racists on the Boston School Committees sought to use government to preserve segregation, radicals, to dismantle it. If speaking for a majority of blacks makes one group the friend of the blacks, then, as I shall show below, the black and white abolitionists were the friends of blacks. For a treatment of anti-racist actions in the public and private life of abolitionist leader Wendell Phillips, see James Brewer Stewart, *Wendell Phillips, Liberty's Hero* (Baton Rouge, La. and London: La. State Univ. Press, 1986), 100-109. Stewart is also excellent in documenting Phillips's profound concerns with politics.

14. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780-1861* (Baltimore and London: Johns Hopkins Univ. Press, 1974), 72; Elkins, *Slavery* (Chicago: Univ. of Chicago Press, 1959), 161-64. While Elkins's views on the effect of slavery on blacks have been convincingly refuted, e.g., by John W. Blassingame, *The Slave Community: Plantation Life in the Ante-Bellum South* (New York: Oxford, 1973), his misrepresentations of the abolitionists have attracted less attention, meriting only one chapter, a fine essay by Aileen S. Kraditor, in Ann J. Lane's collection, *The Debate over "Slavery": Stanley Elkins and His Critics* (Urbana: Univ. of Illinois Press, 1971), 87-101. Elkins's footnotes indicate that he read no primary sources not available in book form. His thesis on the abolitionists would never have survived even a casual perusal of *The Liberator*. Even so careful a scholar as James M. McPherson, who recognizes that the Garrisonians' shifts between moral suasion and pro-government policies were tactical, calls the Garrisonians "antigovernment before the war." McPherson, *The Abolitionist Legacy: From Reconstruction to the NAACP* (Princeton, N.J.: Princeton Univ. Press, 1975), 34.

15. Quoted in Davis, "Massachusetts Blacks and the Quest for Education," 141.
16. Quoted in Arthur Owen White, "Blacks and Education in Antebellum Massachusetts: Strategies for Social Mobility," (unpub. Ed.D. thesis: SUNY, Buffalo, 1971), 191.
17. Schultz, *Culture Factory*, 164-66 for Paul's control over the school after 1819. Paul probably would have opposed removing the school from his church. In light of his son's later role in the controversy, it is instructive to note that Paul Sr. must have hired a white teacher, William Bascom, in 1824, when the previous teacher, John Russwurm, left to become a student at Bowdoin College.
18. Child, "Report," quoted in Levesque, "Black Boston," 495-96.
19. L. M. Child, *An Appeal in Favor of That Class of Americans Called Africans*, quoted in Schultz, *Culture Factory*, 180-82.
20. Davis, "Massachusetts Blacks and the Quest for Education," 147-48.
21. *Boston Liberator*, April 5, 1834.
22. Davis, "Massachusetts Blacks and the Quest for Education," 156.
23. George A. Levesque, "Before Integration: The Forgotten Years of Jim Crow Education in Boston," *Journal of Negro Education*, (1979), 120-21. David Martin Ment, "Racial Segregation in the Public Schools of New England and New York, 1840-1940" (unpub. Ph.D. thesis, Columbia Univ., 1975), gives the 1855 population figures by race and ward. Boston's population was about 5 percent black in 1800, 2 percent in 1840, and 1.3 percent in 1855.
24. Minot, "Address at the Dedication of the Smith School, Boston, 1835," pamphlet in Boston Public Library, not paginated.
25. *Boston Liberator*, March 5, 12, 1841. Jacobs, "History of the Boston Negro," 163-75. Garrison had denounced the law as early as 1832, claiming that ". . . it not only discredits the good sense of the Commonwealth, but is a direct invasion of our inalienable rights." Quoted in Levesque, "Black Boston," 144-47.
26. On the motion of David Lee Child, the New England Anti-Slavery Society in 1834 resolved that its members boycott all racially discriminatory businesses. "We mean to destroy prejudice," Child remarked, "and to give our colored brother all those rights and privileges which belong to him as a man." Individual boycotting actions would show that ". . . we practice as well as preach." *Boston Liberator*, June 14, 1834.
27. Mrs. Green's husband and baby were injured in fracas with train employees. In hers and other cases, segregation, which was never required by law in Massachusetts, but only by

company policy, was enforced only inconsistently. Fair-skinned, Green had previously ridden in white cars on the same road without difficulty. These and other facts on this issue are drawn from Louis Ruchames, "Jim Crow Railroads in Massachusetts," *American Quarterly*, 8 (1956), 62-67; Jacobs, "History of the Boston Negro," 179-90.

28. Ruchames, "Jim Crow Railroads," 162-67. For some of Sewall's activities in the 1840s, see Kinley J. Brauer, *Cotton Versus Conscience: Massachusetts Whig Politics and Southwestern Expansion, 1843-1848* (Lexington, Ky.: Univ. of Kentucky Press, 1967), 90, 138-39. Sewall's representation of the Garrisonian Ruggles is one of many instances of cooperation between factions in the Massachusetts antislavery movement, and it shows how permeable the boundaries between groups were.

29. The August, 1841 state convention of the Massachusetts Anti-Slavery Society had simply added the railroad desegregation effort to the going campaign to repeal the anti-intermarriage law, producing blank petitions on the *Liberator's* press and distributing them through the group's local networks. Ruchames, "Jim Crow Railroads," 68-69. For petition blanks on these and other issues--abolition of slavery in the District of Columbia, against admitting other slave states, and for diplomatic representation of Haiti, the only black-ruled country in the western hemisphere, see the "anti-institutionalist," "anti-political" *Boston Liberator*, Dec. 23, 1842.

30. This was a conventional common-law rule. As George Levesque points out, the committee could have referred to an 1837 report by the legislature's railway committee, which in turn quoted an opinion by then-Massachusetts, later U.S. Supreme Court Justice Joseph Story: "The first and most general obligation on the part of common carriers," Story wrote, "is to carry passengers, whenever they offer themselves, and are ready to pay for their transportation. They are no more at liberty to refuse a passenger, if they have sufficient room and accommodation, than an innkeeper has a guest." *Report of the Committee on Railways and Canals . . . Relative to the Public Use of Railroads*. Mass. Sen. Doc. No. 92 (March 10, 1837), 4-5, quoted in Levesque, "Black Boston," 153-54. The inclusion of sex as what modern legal scholars would call a "suspect classification" indicates that at least some who struggled for a natural rights/equal protection view of fundamental law meant to ban sexual as well as racial discrimination from the beginning.

31. *Boston Liberator*, Feb. 25, March 4, 1842.

32. The Brahmin Loring, a founder of the New England Antislavery Society and a strict Garrisonian from 1831 to 1845, resigned as an officer in the Massachusetts Anti-Slavery Society because he disagreed with the disunionist position that the society adopted after Polk's election. See *Boston Post*, Jan. 25, 1845. He continued to cooperate with the Garrisonians on other matters, however, serving, e.g., as co-counsel with Phillips and Robert Morris for blacks who sought school integration before the Primary School Committee in 1846. See *Boston Post*, March 4, 1846. (The Garrisonians were more tolerant of deserters from their ranks than historians have sometimes charged.) A member of the Boston

Vigilance Committee, he hid the famous fugitive slave Ellen Craft in his Brookline home in 1850. See Jacobs, "History of the Boston Negro," 274.

33. *Boston Liberator*, March 4, 1842, italics supplied. This is the first American use of the term "equal before the law," so far as I know, and predates Sumner's use of it in his brief in *Roberts*. It is hardly conceivable that Sumner was not aware of the phrase, since he was a regular reader of the *Liberator* from 1835 on, and his co-counsel in *Roberts*, Robert Morris, read law in Loring's office. Edward L. Pierce, *Memoir and Letters of Charles Sumner*, 4 vols. (Boston: Roberts Bros., 1877-1893), III, 40.

34. *Boston Liberator*, Feb. 25, 1842; Ruchames, "Jim Crow Railroads," 72. In *Justice Accused: Antislavery and the Judicial Process* (New Haven, Ct.: Yale Univ. Press, 1975), 150-51, Robert M. Cover contends that "The Garrisonians, with Wendell Phillips their chief spokesman, stressed the dichotomy between natural and positive law. They accepted the orthodox position that the law as it is and the law as it ought to be present two distinct spheres." Similarly, see William M. Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760-1848* (Ithaca, N.Y. and London: Cornell Univ. Press, 1977), 240-48. While this statement *may* have correctly described their position in regard to slavery and the U.S. Constitution, their stance in the integration controversy was at the least more complex and perhaps inconsistent with their 1844 view on the constitutionality of slavery. What they seem to have meant was that when the constitution was silent or upheld equality, statute law must uphold equality as well. If there were no statute law, absolute equality must be presumed. If a law or practice mandated segregation, it was invalid as against natural law or a general public policy in favor of equal treatment. Denouncing Chief Justice Shaw's decision in the *Latimer* case in 1842, Garrison declared that "With us, the forms of law, legal precedents, and constitutional arrangements are nothing, in opposition to the claims of our common humanity, the instincts of eternal justice, and the commands of God." Similarly, Phillips's arguments in favor of a personal liberty law for Massachusetts seem closer to Sumner's or Salmon P. Chase's "higher law" position than to the 1844 Garrisonian stance when "No Union with Slaveholders" was adopted as the society's official line. For the Garrison and Phillips quotations, see Morris, *Free Men All*, III, 189. In stark contrast to the Garrisonians' wavering conceptions was the 1843 statement by Peleg Chandler, lawyer for the school board in the *Roberts* case, that "A judge has nothing to do with the moral character of laws which society chooses to make." Quoted in William M. Wiecek, "Latimer: Lawyers, Abolitionists, and the Problem of Unjust Laws," in Lewis Perry and Michael Fellman, eds., *Antislavery Reconsidered: New Perspectives on the Abolitionists* (Baton Rouge and London: Louisiana State Univ. Press, 1979), 229.

35. Ruchames, "Jim Crow Railroads," 73-75. Henry Wilson, *History of the Rise and Fall of the Slave Power in America*, 3 vols. (Boston: J. R. Osgood and Co., 1872-1877), I, 492-95.

36. *Boston Liberator*, Jan. 28, Feb. 11, March 4, 1842. On white racial attitudes from the 1940s to the 1980s, see Howard Schuman, Charlotte Steeh, and Lawrence Bobo, *Racial Attitudes in America: Trends and Interpretations* (Cambridge, Mass.: Harvard Univ. Press,



1985), ch. 3.

37. Quoted in Levesque, "Black Boston," 144-45.

38. *Boston Liberator*, Feb. 25, 1842.

39. The bill had actually passed both houses in 1840, but it was apparently amended in the senate and was defeated when sent back to the house. It passed the senate and failed in the house again in 1841. In 1842, it passed without division in the Senate and by "a decided majority" in the House. Wilson, *Rise and Fall of the Slave Power*, 489-92, contains the best discussion.

40. *Boston Evening Transcript*, Dec. 10, 1844 to Feb. 22, 1845.

41. This legislative deference to local delegations on the matter of school integration was recognized, e.g., by Wendell Phillips, who testified and lobbied for the bills there. See *Boston Liberator*, Dec. 28, 1855.

42. Such calculations were recognized even by the "non-political" Garrisonians. See, e.g., *Boston Liberator*, n.d., quoted in *Boston Atlas*, Dec. 4, 1843. Partisan papers continually reminded the voters of the consequences of their choices under this peculiar political institution. For instance, *Boston Atlas*, Dec. 10, 1853.

43. For a convenient elementary introduction to rational choice theory, see Robert Abrams, *Foundations of Political Analysis: An Introduction to the Theory of Collective Choice* (New York: Columbia Univ. Press, 1980).

44. *Boston Liberator*, Aug. 27, 1841, Sept. 2, 1842. George A. Levesque, "Before Integration: The Forgotten Years of Jim Crow Education in Boston," *Journal of Negro Education*, 48 (1979), 125, and "Black Boston," 172-74, claims that the firing of a black primary school teacher, a Miss Woodson, in 1841, convinced blacks that if they could not share control over the school, they should work for its abolition. This seems dubious. Blacks retained considerable influence over teacher appointments, and there was a popular black "monitor," Joseph Putnam, at the Smith School in 1841. Although there is evidence of an outcry over Woodson's firing, the major popular push for integration began three years later--a long lag-time for a small complaint to begin to bear fruit.

45. *Reports of the Annual Visiting Committees of the Public Schools of the City of Boston, 1845*, City Document #26 (Boston: J. H. Eastburn, 1845), 149.

46. Ment, "Racial Segregation," 20.

47. *Boston Liberator*, Mar. 11, 18, 1842.

48. *Boston Liberator*, Sept. 26, 1845. The most complete treatment of the case is Barbara Linebough's *The African School and the Integration of Nantucket Public Schools, 1825-1847* (Boston: Afro-American Studies Center of Boston Univ., 1978).

Since Absolom's father, Seneca Boston had bought land on the island in 1774, the Bostons had intermarried with most of the other established black families there, and Absolom was a leader in the Baptist Church, as well as a merchant. Thus, a unified black community, led by its first citizen, demanded integration. On Absolom Boston and the black community, see Lorin Lee Cary and Francine C. Cary, "Absolom F. Boston, His Family, and Nantucket's Black Community," *Historic Nantucket*, 25 (Summer, 1977), 15-23; Kristi Kraemer, "The Background and Resolution of the Eunice Ross Controversy," *ibid.*, 28 (April, 1981), 27-31 and 29 (July, 1981), 11-18; Ana Isabel Kaldenbach-Montmayor, "Black on Grey: Negroes on Nantucket in the Nineteenth Century" (unpub. A.B. Thesis, Princeton Univ., 1983). After graduating from the high school, Phebe Ann died at the age of 21. See *Vital Records of Nantucket, Mass., To The Year 1850* (Boston: New England Genealogical Society, 1927), III, 108-09. The case was transferred, without being heard first in the local court, to the State Supreme Court, according to local records. I want to thank Pat Church, clerk of the Nantucket Superior Court; Amy Jenness, a reporter for the *Cape Cod Times*; Isabel Kaldenbach; and Barbara Linebaugh White for providing me with extremely useful leads and materials.

49. Arthur O. White, "Black Parents for Desegregation in the Nineteenth Century," *Integrated Education*, 10 (1972), 38-39; *Boston Liberator*, Feb. 20, July 10, 1846, Dec. 21, 1849. Segregationists in Nantucket charged that the integrationists won the 1846 election by bribing 70 Washingtonians (moderate temperance men). The machine political methods of the Nantucketers, it may be noted, met no rebuke from Garrison. Although the *Boston Grammar School Report, 1849* (Boston: J. H. Eastburn, 1849), 37, claimed that Nantucket resegregated after 1846, abolitionists in Nantucket showed in a letter to the *Boston Liberator*, Nov. 11, 1849, that this was incorrect. Blacks attended the schools nearest them, and although many went to a primary school on York Street, closest to the center of black settlement, others enrolled at previously white primary schools that were more convenient to them or at the grammar or high schools.

50. See Arthur O. White, "Salem's Antebellum Black Community: Seedbed of the School Integration Movement," *Essex Institute Historical Collections*, 108 (1972), 99-118; Davis, "Massachusetts Blacks and the Quest for Education," 111-13, 210-15. A separate school was reestablished in 1834 when a single black girl attempted to attend a common school. The \$1,200 annual cost, Garrison commented, ". . . is paying dear for the whistle of prejudice." He did not restrain himself from adding that "It is an act that properly belongs to the days of witchcraft." *Boston Liberator*, Aug. 23, 1934.

51. As late as December, 1873, a national black convention, in an endorsement of Charles Sumner's national civil rights bill's school integration provision, used the same rather singular wording as Fletcher's in their platform. See *Washington New National Era*, Dec. 18, 1873.

52. White, "Black Parents for Desegregation," 38-19. Fletcher's opinion is quoted in Charles Slack, "Report Relative to Abolition of Colored Schools," in *Original Papers, Acts, and Resolves Passed by the General Court of Massachusetts* (1855), ch. 256, in *Massachusetts State Archives*, p. 8. Worcester maintained segregated schools through 1854. See Slack, "Report," 17-20.

53. Opinions differ on how contested these elections were. Stanley Schultz, *Culture Factory*, 133, says they were tame affairs that returned the same local notables year after year, but "Democritus," in a letter to the *Boston Whig* in 1845, declared that "Political considerations have too much influence in electing men to an office which never ought to be considered a political one." Competence and an interest in children's welfare "ought to be the questions asked respecting a candidate, rather than--Is he a Whig or a Democrat? a Native [i.e., a nativist] or an Abolitionist?" *Boston Whig*, n.d. (1845), in Boston Schools Collection, Government Documents Room, Boston Public Library. Issues were more important in some elections than others. In 1849, according to the major Whig newspaper, there were no issues except personality, and half of the successful candidates were incumbents. See *Boston Atlas*, Dec. 3, 11, 1849.

54. Ment, "Racial Segregation," 36. *Boston Advertiser*, Dec. 10, 1846; *Boston Post*, Dec. 22, 1853. During the 1850s, 30-50 new members of the Primary School Committee were appointed each year. The committee was abolished by the new City Charter in November, 1854. *Boston Advertiser*, Sept. 14, 1854. Until 1846, the primary schools enrolled children up to age 8, and afterward, to age 7. *Boston Post*, Dec. 16, 1846. Since as late as 1850, the majority of students enrolled in the public schools in Boston attended primary schools, the Primary School Board was quite important. Michael B. Katz, "The Emergence of Bureaucracy in Urban Education: The Boston Case, 1850-1884," *History of Education Quarterly* (1968), 157-58.

55. While the names and parties of the Grammar School Board members were listed in the newspapers before each election, those of the Primary School Board were not. A partial list of the names of the members of the Primary School Board is contained in reports of roll calls on school integration in *Boston Liberator*, June 27, 1845, July 10, 1846. In the tables below, therefore, the only numbers of the Primary School Board who are included are those present for the votes on school integration. Their parties had to be sought by combing the lists of party nominees and meetings in the newspapers for other years. For the 1845 Primary School Board, I was able to find the parties of 46 of the 68.

56. On the general importance of the issue of corporal punishment in the city from 1843 to 1845, see *Boston Evening Transcript*, Dec. 9, 1843; *Boston Atlas*, Dec. 8, 1845; Harold Schwartz, *Samuel Gridley Howe, Social Reformer, 1801-1876* (Cambridge, Mass.: Harvard Univ. Press, 1956), 124-29, 136. On the Forbes episode, see *Boston Atlas*, May 21, 1844; *Boston Post*, July 26, 1844; Boston School Committee "Papers," 1844-1854, unpaginated, in Rare Book Room, Boston Public Library, hereafter referred to as BSC Papers; Jacobs, "History of the Boston Negro," 231-37; Levesque, "Black Boston," 178-85. By 1843, Forbes

appears to have turned against both white and black abolitionists, accusing them of inciting black parents to destroy the Smith School and dismissing criticism of himself as part of an integrationist ploy. A decade of teaching in a school with a poverty-stricken clientele and an extremely high student turnover had quenched some of Forbes's enthusiasm as well. See letter from Forbes to Visiting Committee, Aug. 2, 1845, in N. Pickering to Dr. Winslow Lewis, Jr., Aug. 10, 1848, in BSC Papers. Criticism of the quality of his teaching may, therefore, have been justified apart from the opportune timing of the outburst.

57. The roll call vote is in BSC Papers. A Harvard Brahmin and literatur who held local, state, and national elective or appointive offices, Hilliard remained in the Whig party and its American and Constitutional Union successors until at least 1861, yet continued to be an opponent of slavery and a strong supporter of black civil rights. Although as a U.S. Commissioner during the 1850s, he felt bound by the fugitive slave law to return any slaves officially brought before him, he allowed his wife to hide them in their house. See Justin Winsor, *The Memorial History of Boston*, 4 vols. (Boston: Ticknor and Fields, 1881), III, 397; William T. David, ed., *Professional and Industrial History of Suffolk County, Massachusetts*, 3 vols. (Boston: Hist. Co., 1894), 173-74; Wilson, *Rise and Fall of the Slave Power*, II, 690; Schwartz, *Howe*, 106, 191-92; Thomas H. O'Connor, *Lords of the Loom: The Cotton Whigs and the Coming of the Civil War* (New York: Charles Scribner's Sons, 1968), 122, 128.

58. On the boycott, see, White, "Black and Education in Antebellum Massachusetts," 217-18; BSC Papers; *Boston Evening Transcript*, June 28, 1844. The Smith school's visiting committee found the school in Forbes's last year in a "deplorable condition" and "regretted" Forbes's lack of faith in the intellectual capacities of blacks and his diminished "enthusiasm" for teaching them. *Reports of the Annual Visiting Committees of the Public Schools of the City of Boston, 1845* (Boston: J. H. Eastburn, 1845), 22-23. On Mann's role, see Carleton Mabee, *Black Freedom: The Nonviolent Abolitionists From 1830 Through the Civil War* (London: Macmillan Co., 1970), 159-60. In 1846, Nell reported glowingly on Wellington's reforms: "The Smith School is at present under as favorable auspices as the circumstances can admit, and much praise belongs to its teacher, who has so successfully introduced his system of moral suasion." *Boston Liberator*, Sept. 4, 1846.

59. Pickering to Lewis, Aug. 10, 1848, in BSC Papers.

60. *Boston Liberator*, March 7, 1845. Petitions for the bill came from Nantucket, where the integrationists had been defeated in 1844 and 1845, but the discussion on the floor was at least as much concerned with Boston. Phillips later wrote that the Education Committee "threw aside" his draft of the bill and submitted a more "ambiguous" one that "would not secure our object." *Boston Liberator*, April 15, 1853.

61. On the Nantucketers' petitions, which were signed by nearly all the blacks and a majority of the white adult males on the island, see Linebaugh, *African School*, 40-41, 55. On Mann's refusal to take a public stand, see *Boston Liberator*, April 3, 29, May 6, 1853. Mann's claims that he thought that the final bill did require integration and that Chief Justice

Lemuel Shaw misinterpreted it in his *Roberts* opinion ring hollow, since if he followed the bill's progress, as such a meticulous person in his position must have monitored the course of every bill relating to education, he knew that the bill had been repeatedly adulterated by amendments. Carleton Mabee's argument that Mann trimmed on this controversial issue in order to accomplish what Mann deemed larger goals is convincing. See Mabee, "A Negro Boycott to Integrate Boston Schools," *New England Quarterly*, 41 (1968), 346-47.

62. Levesque, "Black Boston," 186-88. It is not clear that the Liberty Party version, which banned the use of public funds to any segregated school, was actually introduced. It was probably inspired by a line in Fletcher's published opinion on Salem that questioned whether public funds could legally be spent on racially exclusive schools.

63. The House and Senate Journals for 1845 are uninformative on the complicated legislative maneuverings. The rules in the Massachusetts legislature at the time did not require roll call votes on amendments or final passage, and the House specifically refused to order a roll call on any of the crucial amendments. The progress of the bill must therefore be pieced together from scanty legislative documents and newspaper reports. See Massachusetts Senate and House *Documents*, 1845 (Boston: Dutton and Wentworth, 1845), Sen. Doc. #42, House Doc. #45; *Boston Advertiser*, Mar. 24, 1845; *Boston Atlas*, Feb. 20, Mar. 4, 10, 15, 24, 25, 1845; *Boston Liberator*, Mar. 7, 1845; *Boston Post*, Feb. 21, Mar. 4, 15, 25, 1845; Wilson, *Rise and Fall of the Slave Power*, I, 496-98.

Basically, the Education Committee's bill allowed damages for "any child unlawfully excluded from any public school." A floor amendment substituted "from public school instruction" for "from any school." A further compromise in the Judiciary Committee confusingly merged these provisions--"from any public school . . . or from public school instruction"--and the Senate passed the bill in that form. After much discussion and several fairly close votes in which the totals, but not the names of legislators were recorded, the House deleted "from any public school" entirely.

64. The provisions of the law are incorrectly represented in Levy and Jones, *Jim Crow in Boston*, xx; James Oliver Horton and Lois G. Horton, *Black Bostonians*, 72, and both the maneuvers and provisions, in Levesque, "Black Boston," 186-88.

65. Joseph M. Wightman, comp., *Annals of the Boston Primary School Committee* (Boston: George C. Rand and Avery, 1860), 208-09, 214-15; *Boston Advertiser*, June 18, 1846; *Boston Atlas*, June 17, 24, 1846; *Boston Liberator*, June 27, 1845, July 21, Aug. 21, 1846; *Boston Post*, June 17, 24, 1846; *Boston Evening Transcript*, June 20, 1845.

66. On Bowditch, see Vincent Yardley Bowditch, *Life and Correspondence of Henry Ingersoll Bowditch*, 2 vols. (Freeport, N.Y.: Books for Libraries Press, 1970, reprint of 1902 ed.); Charles F. Folsom, "Henry Ingersoll Bowditch," *American Academy of Arts and Sciences Proceedings*, 28 (1892-1893), 310-31; Windsor, *Memorial History of Boston*, IV, 324, 329, 337; V, 551, 553.

67. *Report of a Minority of the Committee of the Primary School Board on the Caste Schools of the City of Boston; with some Remarks on the City Solicitor's Opinion* (Boston: A. J. Wright's Steam Press, 1846), 1-20; *Boston Grammar School Board, Majority Report, 1849* (Boston: J. H. Eastburn, 1849), 28. The school committees did not always grant such special dispensations. If they had, the *Roberts* case would never have been filed. A similar compromise "freedom of choice" motion had been proposed by integrationists in Nantucket in 1843. See Linebaugh, *African School*, 28.

68. Chosen July Fourth Orator in 1844, Chandler used the occasion to attack the abolitionists as "a moral mob" whose doctrines were "dangerous to the State . . . and destructive of all true freedom." See James Spear Loring, *The Hundred Boston Orators* (Boston: John P. Jewett and Co., 1855), 614-15. The Democratic *Boston Post*, July 6, 1844, remarked of the speech that if Chandler "had been brought up under happier influences, he would have been a pretty good [D]emocrat." In the legislature in 1845, Chandler, in a maneuver reminiscent of southern Democratic actions in Congress in the 1830s, moved to table all petitions for the abolition of slavery without referring them to any committee. *Boston Post*, March 11, 1845.

Chandler and Sumner had offices in the same building during the 1840s and "associated on the most familiar terms." Pierce, *Memoir and Letters of Sumner*, II, 251. Although he was a political opponent of Sumner and John A. Andrew, the radical Massachusetts during the Civil War, who actually drafted the 1855 school integration statute, Chandler remained friendly with fellow Bowdoin graduate Andrew and wrote a *Memoir of Governor Andrew, with Personal Reminiscences* (Boston: Roberts Bros., 1880). A (conservative) Republican by 1860, Chandler had remained a staunch Whig at least through the mid-1850s, for example, serving on the resolutions committee of the Whig state convention in 1854. *Boston Post*, Aug. 17, 1854. For biographical details on Chandler, see John C. Rand, ed., *One of a Thousand* (Boston: First National Pub. Co., 1890), 112-13.

69. *Boston Liberator*, April 4, 1851; Forbes, "William C. Nell," 13. Roberts was too dark-skinned to pass for white, and, unlike Pindall in 1853, made no attempt to do so.

70. Like Phillips, Loring, Hilliard, and Sumner, Russell could trace his American ancestors to the seventeenth century, and like them, he graduated from Harvard and Harvard Law. A member of the Lower House of the General Court in 1844, 1845, and 1850, he was a State Senator in 1851, 1852, 1877, and 1878, a member of the Whig State Central Committee during the mid-1840s, Mayor of Cambridge in 1861-62, and, like Hilliard, Sumner, and Chandler, a Fourth of July Orator in Boston. The Whig Establishment was not monolithic, and Russell's career, like Sumner's, was not hurt by his integrationist stance. For biographical details, see David, ed., *Professional and Industrial History of Suffolk County*, 292-93; *Boston Atlas*, May 27, 1844. For the Grammar School Committee's 1849 action, see *Report of the Minority of the Grammar School Committee* (Boston: J. H. Eastburn, 1849), 12-13; *Boston Post*, Aug. 30, 1849.

71. Wellington reported in 1846 that the building and apparatus evidenced "the most

shameful negligence and abuse." Quoted in Levy and Phillips, "The *Roberts* Case," 511, n. 8. The 1847 visiting committee found Smith "unfit for the use of the school," remarked that white schools already abandoned by the city were "palaces in comparison," and recommended building a wholly new structure. Nothing having been done, the next year the committee called the house "discreditable to the city." BSC Papers, May 19, 1847; White, "Blacks and Education in Antebellum Massachusetts," 160-61. A few months before the *Roberts* case was argued in court, the Grammar School Committee and the City Council finally spent \$2,000 to repair Smith.

72. Although all the Nantucket arguments are cited from a single source, Linebaugh quotes from a variety of primary documents: school committee and town meeting reports, letters to newspapers, petitions, and statements at other public meetings. It would be more tedious than enlightening to list these fragmentary sources separately.

73. This had been a prime abolitionist tenet from the beginning. For example, the 1832 New England Antislavery Society's platform stated that "A mere difference of *complexion* is no reason why any man should be deprived of any of his natural rights. . . ." Quoted in Wiecek, *Sources of Antislavery Constitutionalism*, 160.

74. The antislavery legalists' usage of the terms "arbitrary" and "reasonable" is very much in accord with modern meanings. See Henry Campbell Black, *Black's Law Dictionary*, 5th ed. (St. Paul, Mn.: West Pub. Co., 1979), 96, 1138.

75. Table 1, source 6. Hereafter citations to the list in Table 1 will consist of argument numbers, enclosed in square brackets, followed by page numbers, when relevant.

76. [24], 202, Sumner's italics. Urging the reprinting of Sumner's brief, Henry Wilson's *Boston Emancipator and Republican*, Dec. 13, 1849, predicted that it would ". . . long be a treasure-house for other laborers . . ." against school segregation. An obituary editorial termed Sumner "not so much . . . the friend of the colored people, as the advocate of justice toward all men. *He was the personified logic of the question, calm, cold, inflexible . . .*" *San Francisco Alta California*, March 17, 1874, italics in original.

77. [9], 9. Cf. Arthur Jensen, "How Much Can We Boost IQ and Scholastic Achievement?", *Harvard Educational Review*, (1969), 109-17. Having referred to the white integrationists as "the alleged friends of the Blacks," Schultz, *Culture Factory*, 184-87, states that Bowditch's 1845 minority report denounced "the alleged prejudice of the Board." This is carrying scholarly disinterestedness rather far.

78. [25]. Similarly, see [5], and, on the good intentions point, [9], 15; [11], 36-38; [18], 121-22; [26], 230-31.

79. Schultz, *Culture Factory*, 202.

80. [1], 48; [9]; [10], 47; [12], 75-76; [24], 182-85, 205; [32], 24.

81. Ronald B. Jager's charge that "Sumner's argument was too broad and insufficiently discriminating to be good law," and that he was too little concerned with "the harmful psychological and sociological consequences of segregation" to make his brief an anticipation of the 1954 *Brown* case is simply muddled. Both Sumner and Shaw considered both the intent and effect of segregation at least as much as Chief Justice Warren did in *Brown*. See Jager, "Charles Sumner, The Constitution, and the Civil Rights Act of 1875," *New England Quarterly*, 42 (1969), 359.

82. [10], 54-55.

83. [19], 154-55, 165.

84. [24], 212.

85. *Briggs v. Elliott*, 132 F. Supp. 766 (1955); *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968). Cf. Raymond Wolters, *The Burden of Brown: Thirty Years of School Desegregation* (Knoxville, TN: U. of Tenn. Press, 1984), 7, 154-58, and *passim*.

86. [18], 103-04.

87. [26], 230-31. For modern research on the question, see Schuman, Steeh, and Bobo, *Racial Attitudes*, 135-38.

88. Quoted in [18], 133.

89. [23]; [18], 133.

90. [2]; [27].

91. [24], 211.

92. [18], 112.

93. [9], 11-12, 25.

94. [24], 211-12.

95. [24], 186-88.

96. [5]; [10], 54; [15]; [17].

97. Discriminators ". . . by a cruel proscription, have compelled them to crowd together in a particular quarter of the city. They have no alternative presented to them; and now one act



of injustice, on the part of the whites, is adduced as a sound reason why another should be perpetrated!" [22] The most significant recent parallel is the Supreme Court's decision in *Milliken v. Bradley*, 418 U.S. 717 (1974).

98. [3], speech by John C. Park.

99. *The Report of the Annual Examination of the Public Schools of the City of Boston, 1849* (Boston: J. H. Eastburn, 1849), 42-43, showed just that tendency, castigating "the best scholars" of the Smith School as "deplorably deficient, considering the time, expense, and care that have been bestowed on them." Their deportment, the antipathetic school committee members found, was even "more discouraging," and the "fault appears to be in the pupils themselves . . ."

100. [10], 54, 60.

101. [9], 25; [25]; [26], 226.

102. [10], 60; [19], 158,160. At least one southern newspaper reacted exactly as predicted, crowing over the *Roberts* decision. See *Spartanburg (S.C.) Spartan*, quoted in *Boston Liberator*, Aug. 16, 1850.

103. [9], 15-20; [19], 101-02; [25].

104. [5]; [9], 22-24; [18], 88-90; [20]; [25].

105. [21].

106. [9], 24, their italics.

107. [22]; [27]. 39.3% of the people of color in 1855 were classified by the census takers as "mulatto." Further research will determine if light-skinned people were especially likely to be integrationists.

108. [3]. Paradoxically, a half year later, Clifford and his New Bedford law partner, Lincoln Flagg Brigham, filed the Nantucket school integration case as lawyers for Absalom Boston! Since Brigham had only just come to the bar, it seems nearly certain that Clifford was actively involved in the case. I have no explanation of Clifford's actions.

109. [3]. For facts on Wilson, see Richard H. Abbott, *Cobbler in Congress: The Life of Henry Wilson, 1812-1875* (Lexington, Ky.: Univ. Press of Kentucky, 1972); Ernest A. McKay, *Henry Wilson: Practical Radical* Port Washington, N.Y.: Kennikat Press, 1971). Jackson and Bowditch used the same phrase, "equal benefit," in their 1846 minority report.

110. [9], 16. While claiming that it was lower-class whites who would desert the common

schools, the Rev. Andrew Bigelow, an author of the 1849 Grammar School Committee's report, who lived only a block from Smith, specifically mentioned the impact on two Beacon Hill common schools that served more affluent whites. See White, "Blacks and Education in Massachusetts," 287-88.

111. [21].

112. [3].

113. [3].

114. [10], 57-8. For a sample of modern research, Christine Rossell, "School Desegregation and White Flight," *Political Science Quarterly*, 90 (1975), 675-95; Thomas F. Pettigrew and Robert L. Green, "School Desegregation in Large Cities: A Critique of the Coleman 'White Flight' Thesis," *Harvard Educational Review*, 46 (1976), 1-53; Christine H. Rossell and Willis D. Hawley, "Understanding White Flight and Doing Something About It," in Hawley, ed., *Effective School Desegregation: Equity, Quality, and Feasibility* (Beverly Hills, Ca.: Sage Pubs., Inc., 1981), 157-84.

115. [14].

116. [18], 121-22. Scholars might be less quick to accuse the abolitionists of sanctimoniousness if they paid equal attention to the anti-abolitionists.

117. [12], 30.

118. [26], 227-28. See *Commonwealth v. Aves*, 18 Pickering 209 (1836), *Fisher v. McGirr*, 1 Gray 1 (1854), *Jones v. Robins*, 8 Gray 329 (1857). In *Aves (Med's Case)*, Shaw ruled that the first article of the Declaration had "abolished" slavery by implication; that is, that a legislative act establishing slavery in Massachusetts would be held unconstitutional by his court, and that no person would be allowed to be held as a slave in the state unless he or she were a fugitive from the south. In *Fisher*, Shaw threw out the state's prohibition law for being "inconsistent with the principles of justice . . . and contrary to the letter and spirit of the Declaration of Rights . . ." because it provided for no trial on the question of whether or not seized liquor was intended for sale. Cf. G. Edward White, *The American Judicial Tradition: Profiles of Leading American Judges* (New York: Oxford Univ. Press, 1976), 59. In *Jones*, he ruled that indictment by information, rather than by grand jury, was inconsistent with the Declaration's "law of the land" clause. In dissent, Justice Pliny Merrick showed conclusively that Shaw had misrepresented sources, and by implication charged him with doing so in order to use a vague clause to overrule a law that he merely disagreed with.

119. See Francis H. Fox, "Discrimination and Antidiscrimination in Massachusetts Law," 44 *B.U.L.R.* 52-3 (1964).

120. See *City of Boston v. Shaw*, 1 Metcalf 130 (1840), *Commonwealth v. Worcester*, 3 Pickering 462 (1826), *Vandine's Case*, 6 Pickering 187 (1828).

121. Shaw, who owned thousands of acres of land in the slave state of Kentucky, waited a dozen years on the bench before declaring a single law unconstitutional, and then voided the Massachusetts "personal liberty law," in the *Latimer* case, as contrary to the fugitive slave provision of the U.S. Constitution. The first judge to write a full opinion sustaining the drastic 1850 fugitive slave law, in the *Sims* case, Shaw stayed loyal to his "cotton Whig" principles by voting for the Constitutional Union Party in 1860 and calling for the repeal of the state's remaining personal liberty laws. See Leonard W. Levy, *The Law of the Commonwealth and Chief Justice Shaw: The Evolution of American Law, 1830-1860* (Cambridge, Mass.: Harvard Univ. Press, 1957), 17, 82, 91, 98; Morris, *Free Men All*, 208.

122. The other three Supreme Court judges were Samuel Sumner Wilde, a Federalist appointed in 1815; Charles A. Dewey, a Whig appointed in 1837; and Theron Metcalf, a Federalist/Whig appointed in 1848. All served for long terms, all had been active in politics before their appointments, and all deferred to the forceful Shaw. See Levy, *Shaw*, 337-39.

123. Shaw gave the appearance of unanimity by not mentioning Fletcher's non-participation and by saying that the members of the court were "all of the opinion" that Sarah Roberts had not been unlawfully excluded. At other times when Fletcher or other justices were absent in other cases in the same volume of the *Massachusetts Reports*, it was noted, so the action may be assumed to have been deliberate on Shaw's part. There was no dissent and no concurring opinion in a single case of the 615-page 1849-50 volume of *Massachusetts Reports*. The information about Fletcher's refusal is in Sumner's printed brief, in [24], 203, and the suggestion of the reason for his refusal is from Arthur Burr Darling, "Prior to Little Rock in American Education: The Roberts Case of 1849-50," *Massachusetts Historical Society Proceedings*, 72 (1963), 137-41. Primary School Committee member Ingraham stated during the 1846 debates that Fletcher had pronounced the legal section of the majority report sound, and had declared that the different organizations of the schools in Salem and Boston made what was illegal in one place legal in the other. See *Boston Advertiser*, June 18, 1846. This report is so craftily phrased, second-hand, and at odds with the broad terms of Fletcher's 1844 view, that I do not find it credible. It is supported by no other source, and several later quoted Fletcher's 1844 views as if they had not changed. If credited, however, it would make Fletcher's refusal even more mysterious.

124. [21]; [22].

124. BSC Papers, 1846; *Boston Courier*, Aug. 9, 1849; *Boston Liberator*, Oct. 5, 12, Nov. 9, 1849; April 26, 1850; [18], 147; Carleton Mabee, *Black Freedom: The Nonviolent Abolitionists from 1830 Through the Civil War* (London: Macmillan Co., 1970), 174; White, "Blacks and Education in Antebellum Massachusetts," 297-98; Schultz, *Culture Factory*, 198-99; Davis, "Massachusetts Blacks and the Quest for Education," 181.

It is important to recognize that the boycott was sporadic and that it was effective only

when precisely tailored to meet achievable ends. In 1844-45, according to documents in the BSC Papers, average attendance at Smith dropped by more than a third, and this no doubt helped to speed Forbes's departure. In the fall of 1855, after blacks had been guaranteed the right to attend common schools, the boycott reduced attendance at Smith to 7 or 8 students, which was sufficient to convince the City Council that it had become too expensive to maintain. See White, "Blacks and Education in Antebellum Mass," 368-72; Jacobs, "History of the Boston Negro," 261-62; *Boston Liberator*, Aug. 17, 1855. But in 1849, against a Grammar School Committee unalterably committed to segregation, and with a divided black community, the boycott had no substantial effect, and it eventually fizzled. Average attendance at Smith rose from 25 in 1850 to 37 in 1851, 54 in 1852, 51 in 1853, 54 in 1854, and 42 in early 1855. See BSC Papers, Aug. 27, 1850; March 2, 1852; July, 1854; and the printed *Reports of the Annual Examinations* for these years. Levesque's claim in "Black Boston," 218, that the 1849 boycott "never got off the ground" is undermined by the statistics on average attendance, as is a statement by Schultz, *Culture Factory*, 198-99, that "only a handful of Blacks" boycotted.

Both parents and officials acted as calculating analysts of the costs and benefits of the maneuver, not as blind ideologues. Cf. Meyer Weinberg, *A Chance to Learn: The History of Race and Education in the United States* (New York: Cambridge Univ. Press, 1977), 27-28; Horton and Horton, *Black Bostonians*, 74.

126. *Boston Liberator*, Feb. 8, 1850. Massachusetts Anti-Slavery Society *Annual Report*, 18 (1850), reprint ed., 3 vols. (Westport, Ct.: Negro Universities Press, 1970), 45-47.

127. *Boston Liberator*, April 26, June 7, 21, Aug. 16, 1850; April 4, June 6, 1851. Representative Henry Wilson tried unsuccessfully to get the Education Committee to introduce such a bill in 1850, after the *Roberts* decision. See Ment, "Segregation in New England and New York," 73. Note the similarity of the language in these bills to that of the Fifteenth--not the Fourteenth--Amendment. On the fusion and confusion of legal standards concerning the two amendments, see Kousser, "Are Expert Witnesses Whores? Reflections on Objectivity in Scholarship and Expert Witnessing," *The Public Historian*, 6 (1984), 8-10.

128. BSC Papers, May 13, 1851. The Grammar School Committee's resolution "ordered" the Suffolk delegation to oppose integration, which would disturb "the present liberal and happy arrangement of our Schools . . ." See White, "Blacks and Education in Antebellum Massachusetts," 343; Levesque, "Black Boston," 224; Schultz, *Culture Factory*, 203-04; *Boston Post*, May 22, 1851. Joseph Wightman, longtime member of the Primary School Committee, was a Whig member of the House in 1851 and coordinated the battle against the bill.

129. See the prescient analysis in the Massachusetts Anti-Slavery Society *Annual Reports*, 20 (1852), 35-36.

130. On the 1851-53 events, see *Boston Liberator*, March 19, Dec. 10, 1852; Davis, "Massachusetts Blacks and the Quest for Education," 221-23; White, "Blacks and Education in Antebellum Massachusetts," 344-45. It may also be that the concentration of Boston

abolitionists shifted to the issue of fugitive slaves after 1850. Bowditch was the chief organizer of the Vigilance Committee, nearly all the leading black and white abolitionists were involved in it and especially in the trials and attempted rescues of Shadrach Wilkins, Thomas Sims, and Anthony Burns, and as many as 100 blacks are said to have left Boston to avoid capture as fugitives during the early 1850s. See Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850-1860* (New York: W. W. Norton and Co., 1972), 98-100, 124-31; 148-51.

131. On the Pindall case and the City Council's actions, see *Boston Post*, Nov. 1, 2, 1854; *Boston Liberator*, Oct. 7, 1853, August 18, Nov. 19, 1854; Levesque, "Black Boston," 228-30; Schultz, *Culture Factory*, 203-05; White, "Blacks and Education in Antebellum Massachusetts," 355-59; *Boston City Documents*, #54, May 22, 1854; BSC Papers, 1854.

132. Donald B. Marti, "Francis William Bird: A Radical's Progress Through the Republican Party," *Historical Journal of Massachusetts*, 11 (1983), 86-87.

133. Baum, *Civil War Party System*, 29-37.

134. Wilson was what all movements need, a principled opportunist. In his *Rise and Fall of the Slave Power*, II, 116, he reports an 1846 speech in which he outlined a course of action that he proceeded to follow: "Whatever others may do, I am willing to act with any man or set of men, Whig, Democrat, Abolitionist, Christian, or Infidel, who will go for the cause of emancipation." President of the State Senate in 1851, Wilson was the Free Soil candidate for Governor in 1853 and the Republican candidate for that office in 1854, a nomination which he effectively resigned in the last week of the campaign in a patent deal with the Americans for a U.S. Senate seat, to which he was subsequently elected. His views on nativism fluctuated, and as the leader of the 1853 constitutional convention, he defended the rights of "men of every race, clime, and country." See Abbott, *Cobbler in Congress*, 42-59. For an interesting contrast of the self-described roles of Wilson and Wendell Phillips, see *Boston Liberator*, June 30, 1854, July 13, 1855.

135. *Boston Liberator*, Nov. 17, 1854; *Boston Post*, Nov. 14, 1854.

136. *Boston Liberator*, Nov. 17, 1854. The *Liberator*, Nov. 24, 1854, commented: "No sympathy can exist between true anti-slavery men and such a secret organization [as the Know Nothings]; for this order is evidently pro-slavery, and not a little of it pro-grog."

137. *Boston Liberator*, Dec. 28, 1855; *Boston Post*, Jan. 16, 1855, quoted in Virginia Cardwell Purdy, "Portrait of a Know-Nothing Legislature: The Massachusetts General Court of 1855" (unpub. Ph.D. Diss.: George Washington Univ., 1970), 94.

138. Andrew had defended Wendell Phillips against a criminal charge of interfering with a federal marshal who was returning Anthony Burns to slavery, and he later organized John Brown's criminal defense. See *Boston Post*, April 4, 1855; Marti, "Francis W. Bird," 88.

On the school integration bill, see *Boston Liberator*, March 30, Dec. 28, 1855; *Boston Post*, *Boston Atlas*, and *Boston Advertiser*, April 4, 1855; *Massachusetts House Journal* (1855), 377, 926, 1125, 1160, 1259, 1359; Wilson, *Rise and Fall of the Slave Power*, II, 640; White, "Blacks and Education in Antebellum Massachusetts," 368.

The 1855 legislature contained many more craft workers, teachers, clerks, and clergymen, and many fewer lawyers than previous or subsequent legislatures, 46 lawyers sat in 1854; 11 in 1855. See George H. Haynes, "A Know-Nothing Legislature," *American Historical Association Annual Report*, 1 (1896), 178-79. An occupationally diverse collection of men with a sprinkling of the working class, in other words, shattered the Whig Establishment and mandated school integration.

139. *Pilot*, quoted in Mabee, "Negro Boycott," 358; *Herald*, quoted in *Boston Liberator*, May 4, 1855.

140. *Boston Liberator*, Sept. 7, 1855, April 17, 1857; White, "Blacks and Education in Antebellum Massachusetts," 374-75; Schultz, *Culture Factory*, 205-06.

141. *Boston Liberator*, August 10, 1849.

142. *Boston Liberator*, Sept. 7, Oct. 5, 1849; Davis, "Massachusetts Blacks and the Quest for Education," 177.

143. *Boston Liberator*, Nov. 9, 1849.

144. The black integrationists strongly defended Wellington. See petition in favor of Thomas Paul, in BSC Papers, 1848; [18], 83-84; *Boston Liberator*, Sept. 7, 21, 1849; White, "Blacks and Education in Antebellum Massachusetts," 297. Thomas Paul Smith had written to James McCune Smith, the New York teacher, asking whether, if segregated schools were continued, he preferred black teachers for black children, other things equal, but not revealing the move to abolish the black schools altogether. J. M. Smith replied, in a letter that T. P. Smith used and the Grammar School Committee majority report reprinted, in favor of black teachers, but when informed of the real issue in Boston, expanded on his earlier letter, and favored integration over black schools with teachers of either race. See *Boston Liberator*, Jan. 4, 1850. The Grammar School Committee, of course, took no note of J. M. Smith's more comprehensive position.

145. [18], 87-89; Ment, "Segregation in New England and New York," 42-43.

146. *Boston Liberator*, Sept. 7, Oct. 5, 1849, Feb. 15, 1850. It is notable that the "dogmatic" Garrison allowed Smith space in his paper to state his position, even though Garrison consistently disagreed with Smith. Among other things, the *Liberator* served as the black community newspaper in Boston during this period. A week before he circulated a petition for the appointment of Paul, T. P. Smith had been secretary to an integrationist meeting that had unanimously opposed doing anything to improve the Smith School, specifically including

a change of masters. See White, "Blacks and Education in Antebellum Massachusetts," 264-67. At an August, 1849, meeting, T. P. Smith "urged the necessity of abolishing the Smith School, but if it *must* [italics in original] continue, and there is no other alternative, then he wished for a colored teacher." See *Boston Courier*, Aug. 16, 1849, for this statement and similar ones from two other leaders of the opposition faction, Charles H. Roberts and John H. Roberts. Smith claimed to have been "steady and unswerving in my present position," [18], 126-28. The Grammar School Committee and the *Boston Post* fawned over T. P. Smith, but referred to the black integrationists as puppets of whites who failed to understand, as the Grammar School Committee claimed to, the true interests of black people. Modern parallels exist.

147. The integrationists claimed that T. P. Smith had changed the terms of the petition after they signed it, and that they only favored Paul if Wellington first resigned. See White, "Blacks and Education in Antebellum Massachusetts," 226-27, 264-67. At least 20 of the signatures on the Paul petition are in the same handwriting, no doubt, Smith's.

148. Paul was a perfect choice to split the integrationists. Not only was he the son of the deceased leader of the Boston black community, but he had been an apprentice on the *Liberator*, a student at the short-lived abolitionist Noyes Academy in New Hampshire (which was destroyed by a mob), as well as the first black graduate of Dartmouth College. T. P. Smith was also soon reconciled with the abolitionists, being indicted in 1851, along with lawyer Robert Morris and others, for helping the slave "Shadrach" escape. See Campbell, *Slave Catchers*, 150. Paul was fired from a teaching job in Albany, New York, in 1868, according to the Albany School Board, because of his "lack of vivacity and ambition." In later years, he published tributes to Robert Morris, Charles Sumner, and William C. Nell. See *Boston Liberator*, Sept. 17, 1841; White, "Blacks and Education in Antebellum Massachusetts," 261-64, 268-70, 295-96; Jacobs, "History of the Boston Negro," 90, 160, 226-27; J. Marcus Mitchell, "The Paul Family," *Society for the Preservation of New England Antiquities*, 63 (1973), 73-77; "Quarterly Report of the Grammar School Board," Nov., 1854, quoted in Slack, "Report Relative to Abolition of Colored Schools," 15-16. Albany School Board, quoted in Ronald J. Madsen, "Desegregation of Albany Public Schools, 1870-1873: A History of the Wilberforce School for Black Children" (unpub. paper in Albany Public Library), 12-13. I want to thank Jack Reynolds for bringing Madsen's paper to my attention.

The Grammar School Committee was quite transparent about its effort to use the hiring of Paul to quell dissent: ". . . the Committee might reasonably hope that the appointment of suitable, well-trained teachers of their own complexion, would naturally secure from colored parents, as well as pupils, a cordial sympathy, co-operation and support." [18], 147.

149. *Boston Liberator*, Jan. 28, 1848; Jacobs, "History of the Boston Negro," 300, 306. One should avoid making too much of the nonpartisanship of the integrationists. Charles H. Roberts and Henry Bibb favored both the abolition of Smith and the Free Soil Party in 1848. Nell and Lewis Hayden (who arrived in Boston in the 1850s and immediately assumed a leadership role in the anti-segregation campaign) ran for the General Court on the Republican party ticket in 1854. See *Boston Advertiser*, Nov. 14, 1854.

150. John T. Hilton, quoted in White, "Blacks and Education in Antebellum Massachusetts," 276. Of 15 large American cities in 1850, Boston had the highest percentage of black male adult freemen who were unskilled or semiskilled, the tenth ranking proportion of artisans, but the second highest proportion of blacks who were merchants. Less than 1% of black male adults owned any property in the city, which put it last among the 15 cities, but it ranked fourth in average property-holding. The statistics paint a picture of mass poverty, but a small, solid, merchantile elite among Boston's antebellum blacks. See Leonard P. Curry, *The Free Black in Urban America, 1800-1850: The Shadow of the Dream* (Chicago: Univ. of Chicago Press, 1981), 24, 258-71.

151. If those who later removed their names from the Thomas Paul petitions were excluded from column 2 of Table 2, the conclusions in the text would be strengthened. 8 of the 24 of these men whose names survive were clothiers or tailors, 2 were laborers, 2 were waiters, and only 1 was unlisted. It is possible, of course, that those on other, longer lists of integrationists would be more representative of the whole black population of Boston.

152. 27% of the males over 15 in Massachusetts in 1860 lived in Suffolk County, and, excluding farmers and farm laborers, the percentage rises to approximately 31%. (The occupational table in the Massachusetts Census did not include Barnstable County.) The state figures, therefore, should fairly closely reflect the actual occupational characteristics of the city's black population. The city directories, of course, excluded a great many people and included some women who were household heads. They are especially likely to have missed live-in servants, boarders, and those who moved a lot.

153. Levesque, "Black Boston," 254-56, tabulated the occupations of Boston blacks from the 1850 U.S. Census. His categories are roughly equivalent to mine. The major differences between his distribution of 575 blacks and the state and city directory figures are that 25.7% of the 1850 census listings were sailors or stevedores, while only 7.5% had no occupation recorded. Using his statistics as a reference category would change no conclusions about the differences between the integrationists and the Paul group.

154. As White, "Blacks and Education in Antebellum Massachusetts," 167-68, shows, the illiteracy rates among members of these "elite" occupations in 1850 were much less than among the unskilled. Only 1 of 22 hairdressers and 0 of 12 waiters could neither read nor write, compared to 15 of 58 sailors, 18 of 85 laborers, and 38 of 210 of the "unskilled." White, "Black Parents for Desegregation in the Nineteenth Century," *Integrated Education*, 10 (1972), 38, stresses the role of the black elite in integration campaigns.

155. Similarly, see Horton and Horton, *Black Bostonians*, 75-76.

156. White, "Blacks and Education in Antebellum Massachusetts," 288-90.

157. *Boston Daily Advertiser*, Aug. 17, 1849..



158. [18], 78-80.

159. Levesque, "Black Boston," 224, n. 30 contends that "The numerical strength of the opposing factions within the Negro community is well-nigh impossible to resolve."

160. It might be claimed that community pressure kept others away. If so, the numbers who may have wanted to enroll would be underestimated, but the notion of the nature and strength of dominant black opinion would be reinforced.

161. This is not to deny that such racially separate institutions as churches or lodges were important to the black community. Indeed, it was in these institutions that the struggle for race-irrelevant schools was organized. But to attribute the abolition of exclusive schools "most importantly" to a heightened level of black community organization after 1844, as Levesque, "Black Boston," 234-35, does is to mistake correlation for cause. Black institutions were not much, if any more developed in 1851, when the General Court refused even to bring an integration bill to the floor than they were in 1855, when it passed such a bill almost unanimously. The key changes were in which white group controlled politics.

162. *Boston Liberator*, Feb. 1, 1856.

163. The General Court's refusal to record a single roll call on the school segregation issue unfortunately precludes an analysis of opinion in that body. The party affiliations were taken from pre- and post-election day lists in the newspapers, usually the *Atlas* or the *Advertiser*. If someone was nominated on more than one ticket in the same year, I assumed that he was a Whig unless other information indicated that he was not fundamentally a Whig. I counted all those nominated as "Americans" in 1855 as Know-Nothings, regardless of previous party affiliations, because of the disruption of the parties during that year.

164. Because the Nantucket newspapers are much less plentiful than those in Boston for the period, it is more difficult to identify the names and party affiliations of school committee members. But Nantucket was so overwhelmingly Whig--and some of the segregationist leaders can be identified as Whigs--that it is very likely that most of the opponents of integration were Whigs. In the 1848 presidential and gubernatorial elections, for instance, the Whigs received 64-69% of the votes and the Free Soilers, who finished second on the island, 21-23%. See *Boston Atlas*, Nov. 9, 16, 1848.

165. Schultz, *Culture Factory*, 193. An obituary notice for the black lawyer Robert Morris noted that most of his \$100,000 in property had been built up in a practice which was "almost entirely among the Irish people." *Quincy, Illinois Daily Herald*, Jan. 10, 1883.

166. Abolitionists, black and white, commented on the "illiberality" of clergymen on the committees, which they believed as typical as it was shameful of the largely anti-abolitionist clergy. See *Boston Liberator*, Sept. 7, Nov. 9, 1849. The fact that these ministers came

primarily from "evangelical" churches--Congregationalist, Presbyterian, Unitarian, Baptist--in the home of the puritans casts initial doubt on an "ethnocultural" explanation of opinion on racial discrimination in schools. Nor does the fact that it was the 1852 Whig Senate, so antipathetic to integration that no bill was even introduced, which passed a state liquor prohibition law. For the vote, see *Boston Liberator*, March 12, 1852. One of the chief opponents of the bill was Charles T. Russell, who had led the fight for school integration in the 1849 Graduate School Committee.

167. Persons are counted separately for each year that they served.

168. The Chi-Square value is 9.981, for the first two columns of Table 7, which is only significant at the 0.35 level.

169. Directory listings do not allow a further breakdown of this category. I plan eventually to examine tax lists to discriminate more finely.

170. For a relatively accessible introduction to limited dependent variables methods, see Eric A. Hanushek and John E. Jackson, *Statistical Methods for Social Scientists* (New York: Academic Press, 1977), 179-216.

171. On ordered response models, see G. S. Maddala, *Limited Dependent and Qualitative Variables in Econometrics* (Cambridge, Eng.: Cambridge Univ. Press, 1983), 46-49. Unordered logit equations yielded quite similar results.

172. The smaller the likelihood ratio, the better the prediction. The higher the percentage of correctly predicted responses, the better the prediction. Precise statistical tests can be computed to determine whether one model fits better than another, on which see Quong H. Vuong, "Likelihood Ratio Tests for Model Selection and Non-Nested Hypotheses" (mimeo., California Institute of Technology, 1986). If one performs such tests, models with very similar likelihoods, such as (1) and (2) or (1) and (4) are not significantly different. Although likelihoods do not have such a natural interpretation as  $R^2$ s in ordinary least squares regression, they are similarly useful in assessing goodness of fit.

173. A "dummy" variable takes on the value 1 if the characteristic is present, and 0, otherwise. For instance, in equation (1),  $K = 1$  if the member was a Know-Nothing, Republican, or Liberty man, and 0, if he was a Whig, Democrat, or of no determinable party.

174. Of course, there may be social traits that I have not been able to measure that had effects independent of party. In addition to those listed in Table 9, I assessed the influence of religion and college attendance as well, and they had no substantial effect, once party was controlled for.

175. Grammar School Committee, *Report of the Annual Examination of the Public Schools* (1853), 19-21, quoted in Ment, "Segregation in New England and New York," 63-66.

176. Compare, with respect to *Roberts*, Vincent P. Franklin, "American Values, Social Goals, and the Desegregated School: A Historical Perspective," in Franklin and James D. Anderson, eds., *New Perspectives on Black Educational History* (Boston: G. K. Hall and Co., 1978), 196.

177. Schultz's suggestion, *Culture Factory*, 206, that integration came about because "The 'sense of the community' had changed . . ." is merely tautological.

178. Ment, "Segregation in New England and New York," 285-86.

179. See Joseph S. Ransmeier, "The Fourteenth Amendment and the 'Separate But Equal' Doctrine," 50 Mich. L. R. 203, 209 (1951).

180. Quoted in Levy, *Shaw*, 23-24.

TABLE 1

## SOURCES OF INTEGRATIONIST AND SEGREGATIONIST STATEMENTS

<u>Pro-Integration Arguments</u>	<u>References</u> *
1. arbitrary, unlawful	[1], 48, 251; [6]; [10], 46-47, 49, 55; [12], 75-76; [16]; [17]; [19], 154-55, 165; [24], 182-85, 202, 204-05; [29], 242; [30]; [32], 19-20, 24, 26, 31, 42, 46, 51-52.
2. reinforces prejudice	[3]; [5]; [8]; [10], 54-55; [15]; [19], 154-55, 160, 165; [24], 212; [29], 243; [30].
3. interracial competition good, blacks favor integration	[2]; [10], 63-64; [22]; [24], 211; [27]; [28], 359-60.
4. distance	[5]; [10], 54; [15]; [17]; [24], 186-88; [32], 33.
5. black schools inferior, expensive	[2]; [5]; [6]; [10], 54, 60; [15]; [23]; [30], 260; [32], 24, 33, 42, 53.
6. antislavery	[5]; [10], 60; [19], 158, 160; [31], 279.
7. protects weak	[3]; [6]; [10], 54-55; [24], 211-12; [30], 260.
8. no white flight, schools not hurt	[3]; [5]; [10], 57-58; [29], 240-43; [31], 257-60, 278.
<u>Anti-Integration Arguments</u>	<u>References</u> *
1. blacks inferior or different	[5]; [9], 9; [14]; [25]; [32], 30-31, 47.
2. custom governs	[3]; [8], 103-04, 133; [23]; [26], 230-31; [32], 32-33.
3. blacks ashamed of selves	[9], 11-12, 25; [18], 211; [32], 31.
4. segregation convenient for blacks	[3]; [9], 10, 31; [18], 106-07; [25]; [32], 41, 46.
5. black schools just as good	[9], 25; [25]; [26], 226; [32], 35, 40, 47.
6. blacks favor, only agitators oppose	[4]; [5]; [9], 15-20, 22-24; [13]; [18], 88-90, 143-44; [19], 101-02; [20]; [21]; [23]; [25]; [32], 48.

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\* The numbers in brackets refer to the sources listed below; those not in brackets are page numbers in each source.



- [13] Smith School visiting committee report, 1847, in *Boston City Documents, 1847*, No. 47 (Boston: J. H. Eastburn, 1847, 31-32).
- [14] N. Pickering to Dr. Winslow Lewis, Jr., in Boston School Committee Papers, Aug. 10, 1848, in Rare Book Room, Boston Public Library.
- [15] Resolutions adopted at black meeting, *Lib.*, Aug. 10, 1849.
- [16] Testimony of John T. Hilton, Robert Morris and Benjamin Roberts before Grammar School Committee, *Boston Advertiser*, Aug. 14, 1849.
- [17] Resolutions of (white) First Wesleyan Church of Boston, 1849, in Boston School Committee Papers, 1849, in Rare Book Room, Boston Public Library.
- [18] Grammar School Committee majority report, 1849, by Andrew Bigelow, Sampson Reed, Horace Dupee and Edward Beecher, in Levy and Jones, *Jim Crow*, 79-148.
- [19] Grammar School Committee minority report, 1849, by Charles Theodore Russell, in Levy and Jones, *Jim Crow*, 149-64.
- [20] Editorial, *Boston Advertiser*, Aug. 26, 1849.
- [21] Editorial, *Boston Post*, Nov. 10, 1849.
- [22] Editorial, *Lib.*, Nov. 16, 1849.
- [23] Thomas P. Smith testimony before Grammar School Committee, letter, in *Boston Post*, Aug. 14, 1849, and *Lib.*, Oct. 5, 1849.
- [24] Charles Sumner brief in *Roberts*, in Levy and Jones, *Jim Crow*, 165-216.
- [25] Peleg Chandler brief in *Roberts*, in *Lib.*, Dec. 14, 1849, and April 26, 1850.
- [26] Lemuel Shaw opinion in *Roberts*, in Levy and Jones, *Jim Crow*, 217-32.
- [27] Benjamin Roberts statement, *Lib.*, April 4, 1851.
- [28] William C. Nell, *Colored Patriots of the American Revolution* (New York: Arno Press, 1968, reprint of 1855 ed.).
- [29] Boston City Council Report, 1854, by George F. Williams, in Levy and Jones, *Jim Crow*, 233-44.

[30] Massachusetts House of Representatives Report No. 167 (1855), by Charles Slack, in Levy and Jones, *Jim Crow*, 245-62.

[31] "Triumph of Equal School Rights in Boston . . . Dec. 17, 1855," a report of a public meeting, in Levy and Jones, *Jim Crow*, 263-90.

[32] Barbara Linebaugh, *The African School and the Integration of Nantucket Public Schools, 1825-1847* (Boston: Afro-American Studies Center of Boston Univ., 1978).

TABLE 2

**SUMMARY OF THE CONTENT OF ARGUMENTS  
FOR AND AGAINST INTEGRATION IN BOSTON AND NANTUCKET**

<u>Pro-Integration Arguments</u>		<u>Boston</u>	<u>Nantucket</u>
1.	arbitrary, unlawful	14 (24%)	7 (54%)
2.	reinforces prejudice	11 (19%)	0
3.	interracial competition, blacks favor integration	6 (10%)	1 (8%)
4.	distance	5 (9%)	1 (8%)
5.	black schools inferior, expensive	8 (14%)	4 (31%)
6.	antislavery	4 (7%)	0
7.	protect weak	5 (9%)	0
8.	no white flight, schools not hurt	5 (9%)	0
TOTAL *		58	13
 <u>Anti-Integration Arguments</u>		 <u>Boston</u>	 <u>Nantucket</u>
1.	blacks inferior or different	4 (11%)	2 (14%)
2.	custom governs	6 (16%)	1 (7%)
3.	blacks ashamed of selves	3 (8%)	1 (7%)
4.	segregation convenient for blacks	5 (13%)	2 (14%)
5.	black schools just as good	3 (8%)	3 (21%)
6.	blacks favor, only agitators oppose	12 (32%)	1 (7%)
7.	better for majority	1 (3%)	2 (14%)
8.	white flight, hurt schools	4 (11%)	2 (14%)
TOTAL		38	14

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\* Totals differ from 100% because of rounding error.



**TABLE 3**  
**OCCUPATIONS OF BLACK PETITION-SIGNERS IN BOSTON**

<u>Category</u>	<u>Integration</u>	<u>Black Teach.</u>	<u>State, 1860</u>	<u>Cit. Dir.*</u>
1	31.6	15.1	10.6	12.3
2	11.0	3.8	13.9	12.9
3	2.2	4.4	1.4	2.1
4	0.0	0.6	0.4	0.3
5	5.2	5.0	5.6	3.5
6	1.5	1.9	1.1	0.8
7	2.9	3.8	4.9	2.4
8	1.5	5.0	14.6	7.8
9	12.5	6.3	4.4	7.2
10	0.0	0.0	0.9	0.3
11	0.7	1.3	0.0	2.1
12	2.2	0.6	0.8	0.8
13	3.7	6.3	30.2	18.0
14	0.7	1.9	0.2	2.4
15	0.0	0.0	9.2	0.8
16	0.0	0.0	1.8	0.3
17	0.0	0.0	0.0	4.0
18	1.5	4.4	0.0	22.0
19	22.1	39.6	0.0	0.0
Number	136	159	1,940	373

**COLUMN DEFINITIONS:**

Integration = Black signer (with decipherable name) of extant petition for school integration, 1844-1849.

Black Teach. = Black signer of petition recommending Thomas Paul for teacher of Smith School, including those who later withdrew names.

State, 1860 = Occupations of males over 15 for whole state, farmers, farm laborers and several very minor categories excluded, from 1860 Census of Massachusetts, 356-57.

Cit. Dir. = Occupations for all people listed as "colored" in segregated section of 1847-1848 Boston City Directory.

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\* NOTE: All column numbers except the last row are expressed in percentages and add to 100% by columns, except for rounding errors.

CATEGORY DEFINITIONS:

- 1 = clothing, millinery, tailor, trader, fancy goods, jobber, furniture;
- 2 = barber, hairdresser;
- 3 = caterer, grocer, restaurateur;
- 4 = printer, newspaper editor;
- 5 = blacksmith, cigar manufacturer, tobacconist, shoemaker, bootblack;
- 6 = clergyman, preacher;
- 7 = chimney sweep, whitewasher, housewright, restorator;
- 8 = mariner, sailor;
- 9 = waiter, cook;
- 10 = lawyer, physician;
- 11 = tender, janitor;
- 12 = teacher, musician, clerk, agent, gymnast;
- 13 = laborer;
- 14 = boarding, boarding house;
- 15 = porter, servant;
- 16 = teamster;
- 17 = washerwoman, washing;
- 18 = none;
- 19 = unlisted.

**TABLE 4**  
**PARTIES AND SCHOOL COMMITTEE VOTES ON INTEGRATION\***

<u>Votes on Integration</u>	<u>Whig</u>	<u>Democrat</u>	<u>Party</u>	
			<u>Know-Nothing</u>	<u>Unknown</u>
For	20	0	32	17
Against	111	20	3	29
No Vote or Not Polled	44	9	23	0

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\* Votes were in Grammar School Committee, 1844, 1851, 1855, and those signing majority and minority reports, 1849; and in Primary School Committee, 1845 and 1846. Not polled or no vote = on Grammar School Committee, but not recorded on issue. Know-Nothing includes 1 Republican and 2 member-years of the Liberty Party. Note that if a man served multiple terms, he is counted separately for each year that he served.

TABLE 5

## WHICH PARTY DIVISIONS ON INTEGRATION ARE SIGNIFICANT?

(Chi-Square Values For Sub-Tables of Table 4)

<u>Categories Included*</u>			
<u>Vote</u>	<u>Party</u>	<u>Chi-Square</u>	<u>Significance Level</u>
F,A,N	W,E,K,U	94.70	< .010
	W,U	24.84	< .010
	W,D	3.95	.139
	U,K	47.97	< .010
F,A	W,D,K,U	84.93	< .010
	W,U	9.00	.027
	W,D	3.69	.054
	U,K	24.68	< .010

Category Definitions:\*

- F = For Integration  
 A = Against Integration  
 N = Not Polled on Integration  
 W = Whig  
 D = Democrat  
 K = Know-Nothing, Republican, Liberty  
 U = Party Unknown

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\* The chi-square values and associated significance levels in each row apply to the subsets of Table 4 indicated in each category definition. For instance, the first row gives the statistics for all of Table 4; while the sixth row pertains to a subtable of Table 4 with only four entries: Whigs who were for integration, Whigs who were against integration, those of unknown party who were for integration, and those who were unknown and against.

TABLE 6

## BIRTHPLACE AND VOTE ON INTEGRATION

<u>Vote</u>	<u>Mass.</u>	<u>Birthplace</u> <u>Elsewhere</u>	<u>Not Found</u>
For	13	6	51
Against	58	19	86
No Vote	19	17	40

Chi-Square = 15.342      Significance Level = < .01

TABLE 7

## OCCUPATION AND VOTE ON INTEGRATION

<u>Occupation</u>	<u>For</u>	<u>Against</u>	<u>No Vote</u>
Clergy	9	19	21
Lawyer	4	15	18
Government Officer	0	7	2
Physician	17	30	12
Banker	3	5	1
Merchant or Manufacturer	22	66	10
Teacher	1	2	0
Printer	4	4	1
Other	4	3	6
Missing	6	12	5

Chi-Square = 47.701      Significance Level = < .01

TABLE 8

## OCCUPATION AND PARTY

<u>Occupation</u>	<u>Party</u>			
	<u>Whig</u>	<u>Democrat</u>	<u>Know-Nothing</u>	<u>Unknown</u>
Clergy	32	4	7	6
Lawyer	28	2	6	1
Government Officer	3	2	1	3
Physician	33	7	15	4
Banker	9	0	0	0
Merchant or Manufacturer	52	9	13	24
Teacher	2	0	1	0
Printer	5	0	3	1
Other	6	0	4	3
Missing	6	5	8	4

Chi-Square = 49.03      Significance Level = < .01

TABLE 9

## ORDERED PROBIT REGRESSIONS PREDICTING VOTE ON INTEGRATION

VARIABLE LISTING

- F = For Integration  
 A = Against Integration  
 N = Not Voting on Integration  
 P = Party (Ordered 0 = Democrat, 1 = Whig, 2 = Unknown,  
 3 = Know-Nothing, Republican, or Liberty)  
 D = Democrat  
 W = Whig  
 U = Unknown Party  
 K = Know-Nothing, Republican, or Liberty  
 E = Occupation (0 = Merchant, Manufacturer, Teacher, Printer,  
 Other, or Missing; 1 = Clergy, Physician, Lawyer,  
 Government Official, or Banker)  
 B = Birthplace (0 = Not Found In Census or Local History;  
 1 = Found)  
 Y = Birthyear (0 = Missing, 1 = Pre-1789, 2 = 1790-1799,  
 3 = 1800-1909, 4 = 1810-1819, 5 = 1820-1825)

<u>EQUATIONS</u> *			Log Likeli- hoods	% Correct Predict.
(1)	F,A	= 1.37(4.53)K-2.37(-7.18)W-5.63(-0.35)D-1.70(-4.77)U	-98.38	82.40
(2)	F,A	= -2.17(-9.39)+1.07(7.99)P	-100.92	82.40
(3)	F,A	= -0.53(-4.47)+0.01(0.07)E	-142.41	69.96
(4)	F,A	= -0.33(-2.98)-0.52(-2.87)B	-138.20	69.96
(5)	F,A	= -2.37(-8.57)+1.11(7.97)P+0.30(1.46)E	-99.85	80.69
(6)	F,A	= -2.03(-7.86)+1.04(7.67)P-0.24(-1.13)B	-100.28	81.12
(7)	F,A	= -2.11(-8.18)+1.06(7.74)P-0.03(-0.52)Y	-100.79	80.69
(8)	F,A	= -2.22(-7.63)+1.07(7.67)P+0.35(1.65)E-0.30(-1.37)B	-98.90	81.54
(9)	F,A,N	= 1.10(6.68)K-1.45(-7.93)W-1.74(-6.10)D-1.10(-4.64)U	-278.14	62.14
(10)	F,A,N	= -0.94(-7.12)+0.62(8.01)P	-281.06	62.14
(11)	F,A,N	= -1.04(-5.79)+0.63(7.83)P+0.29(2.07)E-0.15(-1.08)B	-278.46	61.49

\* "t" statistics in parentheses. "t" values  $\geq 2.0$  are significant at the 0.05 level.

\*\* % of cases correctly predicted.

TABLE 10

## DID VOTING FOR INTEGRATION HURT A POLITICIAN'S CAREER?

<u>Known To Have Higher Office</u>	<u>Vote On Integration</u>	
	<u>Yes</u>	<u>No</u>
Yes	8	31
No	62	132

Chi-Square = 2.02      Significance Level = 0.155